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**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

# Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez

**Addendum**

## Observations on communications transmitted to Governments and replies received*

* The present document is being circulated in the languages of submission only.

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## Abbreviations

AL Allegation Letter

JAL Joint Allegation Letter

JOC Joint Other Communications

JUA Joint urgent appeal

OC Other Communications

UA Urgent appeal

## Methodology

In cases where protection measures apply to one or more individuals, these are referred to as Mr. / Ms. A, B, C, etc. or, just as some specific locations are referred to as A, B, C, etc.

# I. Introduction

1. The present document is submitted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, to the Human Rights Council, pursuant to its resolution 25/13.

2. In the present addendum, the Special Rapporteur provides observations, where considered appropriate, on communications sent to States between 1 December 2013 and 30 November 2014, as well as on responses received from States in relation to these communications until 31 January 2015. Communications sent and responses received during the reporting period are accessible electronically through hyperlinks.

3. The Special Rapporteur is grateful to all States, which have transmitted responses to communications sent. He considers response to his communications an important part of cooperation by States with his mandate. In this context, the Special Rapporteur recalls paragraph 2(a) of the Human Rights Council resolution 25/13 which urges States to "fully cooperate with and assist the Special Rapporteur in the performance of his or her task, to supply all necessary information requested by him or her and to fully and expeditiously respond to his or her urgent appeals, and urges those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer without further delay."

4. The communications and the relevant replies can also be accessed via the encorporated links or in the communications reports of Special Procedures A/HRC/26/21 (communications sent, 1 December 2013 to 28 February 2014; replies received, 1 February to 30 April 2014); A/HRC/27/72 (communications sent, 1 March to 31 May 2014; replies received, 1 May to 31 July 2014) and A/HRC/28/85 (communications sent, 1 June to 30 November 2014; replies received, 1 August 2014 to 31 January 2015).

# II. Observations by the Special Rapporteur

## Algeria

**(a)** AL JUA 20/12/2013 Case No. DZA 7/2013 State Reply: None to date **Allégations de détention au secret de M. Djamel Ameziane.**

5. Le Rapporteur spécial regrette que le gouvernement de l'Algérie n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13, ainsi qu'à se conformer à son obligation, en vertu du droit international coutumier, d'enquêter, poursuivre, et punir tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants

6. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus, et donc, que le gouvernement de l'Algérie, en échouant à fournir des informations sur l'endroit où se trouve M. Ameziane, a violé son droit de ne pas être soumis à la torture ou autres peines ou traitements cruels, inhumains ou dégradants, comme prévu dans les articles 1 et 16 de la CCT.

**(b)** JOL 30/12/2013 Case No. DZA 8/2013 State Reply: 11/04/2014 **Allégations concernant la découverte d'un charnier qui pourrait contenir les corps des personnes qui seraient des victimes de disparation forcée.**

7. Le Rapporteur spécial remercie le gouvernement de l'Algérie pour sa réponse, datée du 11 avril 2014, à la présente communication. Le Rapporteur prend note de l'information fournie par le gouvernement selon laquelle la gendarmerie nationale d'Azzaba sous l'autorité de M. le Procureur de la République près du Tribunal d'Azzaba, Cour de Skikda, aurait entrepris une enquête. Selon l'information reçue, les investigations sont toujours au stade de l'enquête préliminaire et les experts sont en train de confirmer les identités des 28 personnes trouvées dans le charnier. En outre, l'Etat note qu'aucune allégation de disparation forcée n'a été portée à son attention et que le Constantine de la Coordination nationale des familles de disparus a demandé à être informé des résultats de l'enquête.

8. Le Rapporteur estime que le gouvernement, dans sa réponse, n'aborde pas suffisamment les préoccupations, les obligations légales, et les questions soulevées dans la communication initiale, ce qui le pousse à déduire que le gouvernement échoue à coopérer sans réserve et promptement avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13, ainsi qu'à se conformer à son obligation, en vertu du droit international coutumier, d'enquêter, poursuivre, et punir tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

9. En l'absence d'information convaincante prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus, et donc, que le gouvernement de l'Algérie, en échouant à mener une enquête approfondie, efficace, indépendante, impartiale et rapide et en échouant à protéger le droit imprescriptible à la vérité, y inclus l'obligation de donner accès à l'information recueillie par l'enquête, a violé le droit des victimes et de leurs familles de ne pas être soumis (e) à la torture ou autres peines ou traitements cruels, inhumains ou dégradants, comme prévu dans les articles 1 et 16 de la CCT.

## Angola

**(a)** JAL 05/12/2013 Case No. AGO 5/2013 State Reply: 08/01/2014 **Allégations concernant les meurtres présumés de M. Silva Alves Kamulingue et M. Isaías Sebastião Cassule ainsi que le meurtre de M. Manuel "Ganga" de Carvalho.**

10. Le Rapporteur spécial remercie le gouvernement de l'Angola pour sa réponse, datée du 1 août 2014, à la présente communication. Le Rapporteur a pris connaissance de l'explication exhaustive du gouvernement en réponse aux préoccupations, obligations légales et questions soulevées au sujet des meurtres présumés de M. Kamulingue et M. Cassule dans la communication initiale. Il accueille avec intérêt l'information fournie par le gouvernement selon laquelle il a ouvert une enquête et a identifié sept prévenus. En outre, il salue les étapes prises par le gouvernement pour travailler avec les familles des victimes dans le but de minimiser la souffrance causée par la disparition des victimes.

11. Toutefois, le Rapporteur spécial regrette que le gouvernement de l'Angola n'ait pas répondu aux préoccupations, obligations légales et questions soulevées au sujet du meurtre de M. Manuel "Ganga" de Carvalho, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13, ainsi qu'à se conformer à son obligation, en vertu du droit international coutumier, d'enquêter, poursuivre, et punir tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

12. En l'absence d'information suffisante prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale,

réitérées ci-dessus, et donc, que le gouvernement de l'Angola, en échouant à ouvrir une enquête, a violé le droit de M. Carvalho de ne pas être soumis à la torture et autres peines ou traitements cruels, inhumains ou dégradants, comme prévu dans les articles 1 et 16 de la CCT. Quant à l'enquête et les sept prévenus identifiés au sujet des meurtres présumés de M. Kamuligue et M. Cassule, le Rapporteur demande au gouvernement de l'Angola de lui fournir des informations additionnelles et actualisées.

## Argentina

**(a)** JAL 23/12/2013 Case No. ARG 7/2013 State Replies: 30/12/2013 and 26/03/2014 **Alegaciones relativas a la ausencia de protección del Gobierno ante los saqueos y confrontaciones entre individuos civiles, durante las protestas de las fuerzas policiales que tuvieron lugar el 3 y 4 de diciembre de 2013 en las provincias de Córdoba, Chaco, Tucumán y Jujuy, resultando en la muerte de nueve individuos y 250 personas heridas.**

13. El Relator Especial agradece al Gobierno de Argentina por sus respuestas, de fechas 30 de diciembre de 2013 y 26 de marzo del 2014, acusando recibo de la presente comunicación.

14. El Relator Especial toma nota de la información ofrecida por el Gobierno sobre los saqueos y confrontaciones entre civiles durante las protestas de las fuerzas policiales que tuvieron lugar el 3 y 4 de diciembre de 2013 en las provincias de Córdoba, Chaco, Tucumán y Jujuy y da cuenta de que, a la fecha del envío de la respuesta, las circunstancias del caso se encontraban bajo investigación. Toma nota, asimismo, de las instrucciones dadas a fiscales federales de encuadrar los acontecimientos bajo las figuras de rebelión o sedición por la presunta actitud de algunos funcionarios de policías provinciales de facilitar o hasta fomentar los disturbios.

15. Las notas del Gobierno antes mencionadas prometían una actualización a medida que las causas avanzaran; hasta el momento, sin embargo, la Relatoría carece de nueva información. El Relator considera por ello que las respuestas recibidas no responden adecuadamente a las inquietudes presentadas en la comunicación inicial ni constituyen por ahora cooperación plena y rápida con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Las respuestas presentadas por el gobierno de Argentina sólo se refieren a las acciones judiciales que se estaban llevando a cabo sin elaborar en qué etapa procesal se encontraban, más allá de las mencionadas instrucciones a los fiscales federales. El Relator Especial desea insistir en la obligación emanada de la norma consuetudinaria internacional y de la Convención contra la Tortura (CAT), de investigar, juzgar y sancionar todos los actos de tortura y tratos crueles, inhumanos o degradantes.

## Australia

**(a)** JAL 27/03/2014 Case No. AUS 1/2014 State Reply: 26/05/2014 **Allegations of indefinite detention of asylum seekers, detention conditions, alleged detention of children, and escalating violence and tension at the Regional Processing Centre**.

16. The Special Rapporteur thanks the Government of Australia for its reply, dated 26.05.2014, to the present communication.

17. The Rapporteur welcomes the Government's initiatives to investigate and review the events of 16-18 February; however, he regrets that the Government has not to this date submitted, as announced in its initial reply, any substantive reply.

18. The Rapporteur hence finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

19. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Australia, by failing to provide adequate detention conditions; end the practice of detention of children; and put a stop to the escalating violence and tension at the Regional Processing Centre, has violated the right of the asylum seekers, including children, to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(a) **UA** 08/07/2014 Case No. AUS 2/2014 State Reply: 10/07/2014 **Allegations concerning the situation of two groups of Sri Lankan asylum seekers and migrants (203 in total), including a significant number of Tamils, and their incommunicado detention and imminent deportation to Sri Lanka by the Australian Government, in contravention of Australia's non-refoulement obligations.**

20. The Special Rapporteur thanks the Government of Australia for its reply, dated 10 July 2014, to the present communication.

21. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT). The Government in July 2014, stating that these matters were currently before the High Court of Australia. The Special Rapporteur has not received any communication since.

22. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the extradition of the two groups of Sri Lankan asylum seekers and migrants, has not taken place. The Rapporteur strongly urges the Government of Australia to protect the right of these 203 migrants to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT, and to refrain from deporting these individuals to Sri Lanka where they risk torture, thereby ensuring compliance with article 3 of the CAT.

(b) JUA 17/11/2014 Case No. AUS 4/2014 State Reply: 16/12/2014 **Allegations concerning acts of intimidation and ill-treatment of two asylum-seekers, following their statements regarding the violent attacks against asylum-seekers, which allegedly took place between 16 and 18 February 2014 at the Manus Regional Processing Centre, and immigration detention centre located in Manus Island, Papua New Guinea, whose internal security is operated by a company on behalf of the Australian Government.**

23. The Special Rapporteur thanks the Government of Australia for its reply, dated 16 December 2014, to the present communication.

24. The Rapporteur takes note of the information provided by the Government that the allegations concerning the ill-treatment of Mr. A and Mr. B are subject to domestic legal proceedings currently before the High Court of Australia. He welcomes the Australian Governments adoption of 9 out of the 13 recommendations in the report "Review *into the events of 16-18 February 2014 at the Manus Regional Processing Centre*", that was

released on 23 May 2014. In spite of the information supplied by the Government, its reply fails to inform the Rapporteur about the status and progress of the case concerning Mr. A and Mr. B.

25. The Rapporteur finds that the Government, in its reply, does not sufficiently address all of the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention Against Torture (CAT).

26. In the absence of sufficient information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Australia, by failing to provide any additional information or details of the investigation into Mr. A and Mr. B's allegations, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by article 1 and 16 of the CAT.

**(c)** JOL 17/11/2014 Case No. AUS 5/2014 State Reply: 23/12/2014 **Allegations concerning the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014 and the Migration Amendment (Character and General Visa Cancellation) Bill 2014 which are reportedly being scrutinized by the Senate's Legal and Constitutional Affairs Committee.**

27. The Special Rapporteur thanks the Government of Australia for its reply, dated 23 December 2014, to the present communication.

28. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication.

29. He takes note of the information provided by the Government that the Migration Amendment (Character and General Visa Cancellation) Bill 2014 and the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014 passed both Houses of Parliament on 26 November 2014 and 15 December 2014, respectively.

30. Notwithstanding, the Rapporteur surmises that both bills put Australia at risk of violating the Convention Against Torture (CAT). The Migration and Maritime Powers Legislation Amendment, which has passed both the house and the Senate of Australia at this point, violates the CAT because it allows for the arbitrary detention and refugee determination at sea, without access to lawyers. The Migration Amendment (Character and General Visa Cancelation Bill violates the CAT because it tightens control on the issuance of visas on the basis of character and risk assessments.

31. The Rapporteur concludes that the Government of Australia, by failing to amend the provisions of the two bills to comply with the State's obligations under international human rights law, particularly with regard to the rights of migrants, and asylum seekers, including children, has violated the rights of migrants and asylum seekers to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1, 3, and 16 of the CAT.

## Bahamas

UA 25/06/2014 Case No. BHS 1/2014 State Reply: None to date **Allegations of imminent deportation of Mr. X who has applied for asylum in Naussau and is detained in the Carmichael Road Migration Center, the Bahamas.**

32. The Special Rapporteur regrets that the Government of the Bahamas has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

33. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Government of the Bahamas, by seeking to extradite Mr. X, violates his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

34. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the extradition of Mr. X has not taken place. The Rapporteur strongly urges the Government of the Bahamas to protect the right of Mr. X to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT, and to refrain from extraditing Mr. X, thereby ensuring compliance with article 3 of the CAT.

## Bahrain

**(a)** JUA 10/01/2014 Case No. BHR 1/2014 State Reply: 11/02/2014 **Allegations of beatings and arbitrary and incommunicado detention of Mr. Fardan.**

35. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 11.02.2014, to the present communication.

36. The Rapporteur takes note of the information provided by the Government that Mr. Fardan was released on 9 January and that the case, on the date of the dispatch of the reply, was still under investigation.

37. Nonetheless, the Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

38. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Bahrain, by failing to protect the physical and psychological integrity of Mr. Fardan and prevent his prolonged incommunicado detention, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(b)** JUA 17/01/2014 Case No. BHR 2/2014 State Reply: 17/02/2014 **Allegations of arrest and detention of Mr. Aqeel Abdul Rasool Mohamed Ahmed, as well as the alleged**

**enforced disappearances of Mr. A and Messrs. Ahmed Mohammed Saleh Al Arab, Mansoor Ali Mansoor Al Jamri, and Hussain Al Ghasra.**

39. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 17.02.2014, to the present communication.

40. The Rapporteur takes note of the information provided by the Government that, on the date of the dispatch of the reply, Mr. A and Messrs. Ahmed Mohammed Saleh Al Arab, Mansoor Ali Mansoor Al Jamri, and Hussain Al Ghasra were still in detention, and that their cases were still under investigation.

41. He regrets that, up until this date, the Government has not provided any update on the cases. The Rapporteur moreover expresses grave concern at the fact that the Government holds no information about Aqeel Abdul Rasool Mohammed Ahmed, and that it has failed, in its reply, to provide any information on investigations or other inquiries which may have been carried out in order to obtain information of the fate and whereabouts of Aqeel Abdul Rasool Mohammed Ahmed.

42. Overall, the Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

43. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Bahrain, by failing to protect the physical and psychological integrity of Messrs. Aqeel Abdul Rasool Mohamed Ahmed, A, Ahmed Mohammed Saleh Al Arab, Mansoor Ali Mansoor Al Jamri, and Hussain Al Ghasra, and to exclude evidence obtained under torture or ill-treatment, has acted in discordance with article 15 of the CAT and violated the right of the persons named above to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(c)** JUA 31/03/2014 Case No. BHR 3/2014 State Reply: 27/05/2014 **Allegations of torture and ill-treatment of Mr. A, and use of confessions extracted under such conditions during judicial investigation.**

44. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 27.05.2014, to the present communication.

45. The Rapporteur takes note of the information provided by the Government that an investigation has been conducted, by the public prosecution service, into the facts of the crime in which Mr. A has been accused, however, he regrets, that the investigation seems to be based on a erroneous foundation, including evidence obtained under torture or ill-treatment.

46. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

47. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and

thus, that the Government of Bahrain, by failing to protect the physical and psychological integrity of Mr. A, provide adequate medical treatment, and exclude evidence obtained under torture or ill-treatment, has acted in discordance with article 15 of the CAT and violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(d)** JUA 15/04/2014 Case No. BHR 4/2014 State Reply: 14/05/2014 **Allegations of torture and other illtreatment of Mr. Ahmed al-Arab, a 22-year old nurse student and political activist, and the alleged use of confessions extracted under duress during court proceedings.**

48. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 14.05.2014, to the present communication.

49. The Rapporteur takes note of the information provided by the Government that the victim, under his questioning, underwent physical examination by the Department of Public Prosecutions and was found to have injuries stemming from his contact with the police.

50. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

51. In the absence of sufficient information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Bahrain, by failing to protect the physical and psychological integrity of Mr. al-Arab, provide adequate medical treatment, and exclude evidence obtained under torture or ill-treatment, has failed to act in accordance with article 15 of the CAT and violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(e) JUA 08/07/2014 Case No. BHR 8/2014 State Reply: 29/08/2014 Allegations concerning the sentencing of Mr. Maher al-Khabbaz to death, allegedly on the basis of false confession extracted by means of torture.**

52. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 29 August 2014, to the present communication.

53. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

54. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering

and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

55. In the absence of convincing information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Bahrain, by arbitrarily arresting Mr. Maher al-Khabbaz, torturing him, forcing him to confess to a crime, and sentencing him to death on the basis of such a flawed process, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

56. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the execution of Mr. al-Khabbaz has not taken place. The Rapporteur strongly urges the Government of Bahrain to refrain from executing him, as well as to refrain from and abolish the practice of executions.

(f) **JUA 11/08/2014 Case No.** BHR 10/2014 **State Replies:** 15/09/2014 **and** 26/09/2014 **Allegations of harassment and intimidation of members of the Bahrain Youth Society for Human Rights (BYSHR) and the ongoing detention of one of its members.**

57. The Special Rapporteur thanks the Government of Bahrain for its replies, dated 15 September 2014 and 26 September 2014, to the present communication.

58. He regrets that, as of the drafting of this report, no official translation is available to the Government's replies of 15 September 2014 and 26 September 2014.

59. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

(g) **JUA 14/08/2014 Case No. BHR** BHR 11/2014 **State Replies:** 26/09/2014 **and** 21/10/2014 **Allegations concerning the arbitrary arrest, detention, and torture of nine Bahraini nationals (two of whom are minors), the forced disappearances of some of them, and the convictions after trials that did not meet international standards of due process of five of them.**

60. The Special Rapporteur thanks the Government of Bahrain for its replies, dated 26 September 2014 and 21 October 2014, to the present communication.

61. He regrets that, as of the drafting of this report, no official translation is available to the Government's replies of 26 September 2014 and 21 October 2014.

62. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

## Bangladesh

JUA 27/12/2013 Case No. BGD 15/2013 State Reply: None to date **Allegations concerning the violent suppression of public opinion and torture of members of the political opposition, journalists and human rights defenders since the announcement of the general election on 25 November 2013, as well as in the arbitrary execution of at least 150 individuals.**

63. The Special Rapporteur regrets that the Government of Bangladesh has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

64. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Bangladesh, by failing to protect the physical and psychological integrity of members of the political opposition, journalists and human rights defenders, has violated the right of these individuals to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Belarus

JUA 08/01/2014 Case No. BLR 1/2014 State Reply: 31/03/2014 **Allegations concerning the case of Mr. Eduard Lykov, aged 53, citizen of the Republic of Belarus, who was sentenced to death and risks execution.**

65. The Special Rapporteur thanks the Government of Belarus for its reply, dated 31.03.2014, to the present communication.

66. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication.

67. He takes note of the information provided by the Government about the legal procedures followed, including clinical, psychiatric and psychological examinations conducted, with regards to the sentence to death of Mr. Lykov.

68. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79). In addition, he calls upon retentionist States to end the practice of executions with little or no prior warning given to condemned prisoners and their families (para. 80 (c)), a practice often observed in Belarus.

69. The Special Rapporteur concludes that the Government of Belarus, by not taking steps to prevent the execution of Mr. Lykov, has violated his right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided by articles 1 and 16 or the CAT.

## Brazil

**(a)** JUA 27/02/2014 Case No. BRA 2/2014 State Reply: 28/04/2014 **Allegations of ongoing acts of torture, the killing of prisoners, and the conditions of detention prevailing at the Pedrinhas Provisional Detention Centre in the state of Maranhão.**

70. The Special Rapporteur thanks the Government of Brazil for its reply, dated 28.04.2014, to the present communication.

71. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication.

72. He welcomes the efforts by the Government to diminish deficiencies in the penal system, improve prison infrastructure, ensure access to justice and train staff throughout the justice system at both federal and national level. The Rapporteur takes note of the steps taken to investigate the cases of Messrs. Josivaldo Pinheiro Lindoso and Sildener Pinheiro Martins; however, he regrets that, on the date of the dispatch of the reply, investigations into the case of the latter were still ongoing. He welcomes the measures taken to compensate the families of the victims of the arson attack.

73. The Rapporteur also takes note of the fact that investigations have been conducted into the allegations of sexual abuse of female partners of prisoner; however, he regrets that those investigations, on the date of the dispatch of the reply, have not been able to document any incidents.

74. Notwithstanding, the Rapporteur concludes that the Government of Brazil, by failing to ensure the physical and psychological integrity of the prisoners in question, their female partners, and other victims in question, including a 6-year-old girl, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(b)** **JAL 17/07/2014** Case No. BRA 5/2014 State Replies: 19/09/2014 and 11/11/2014 **Allegations concerning cruel, inhuman or degrading treatment or punishment which men, women and juveniles are subject to in holding cells of police stations in the State of Mato Grosso do Sul due to the overall conditions of detention and, in particular, overcrowding, limited access to medical care and poor hygiene.**

75. The Special Rapporteur thanks the Government of Brazil for its replies, dated 19 September 2014 and 11 November 2014, respectively, to the present communication.

76. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication.

77. He takes note of the information provided by the Government that expands on the condition and occupants of each detention center by location. He welcomes the Government's progress towards combatting overcrowding in facilities and its realization that health services provided to inmates needs to be expanded.

78. Notwithstanding, the Rapporteur concludes that the Government of Brazil, by maintaining deplorable conditions in detention centers, such as in access to lawyers, healthcare, and overcrowding, violates the right of men, women and juveniles in holding cells of police stations in the State of Mato Grosso do Sul, to be free from cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

79. The Special Rapporteur acknowledges the efforts of the Government of Brazil to comply with its international obligations under the CAT and welcomes further communication of those efforts.

**(c)** **JAL 04/09/2014** Case No. BRA 8/2014 State Reply: 10/12/2014 **Allegations of threats and attacks against Ms. A, and the attack against her family and the raid on her home.**

80. The Special Rapporteur thanks the Government of Brazil for its reply, dated 10 December 2014, to the present communication.

81. The Rapporteur acknowledges the comprehensive account of the Government in the response to the concerns, legal obligations and questions raised in the initial communication.

82. He takes note of the information provided by the Government that the investigations of the alleged threats and attacks against Ms. A and her family are still ongoing.

83. Notwithstanding, there is an absence of sufficient information regarding the involvement of the police and the obligation of the State to ensure that the police respect the rights of Ms. A.

84. In accordance with the CAT, every state has the responsibility to conduct prompt investigations into allegations of torture or cruel, inhuman or degrading treatment. Given that there has been no updated information since the Government's reply the Rapporteur is unable to conclude whether the State has lived up to its obligation to ensure that police respect Ms. A's rights, and to provide full redress to her for the ill treatment alleged. The Rapporteur expects to be kept fully informed of the outcome of the ongoing proceedings

## Brunei Darussalam

JOL 25/09/2014 Case No. BRN 1/2014 State Reply: 13/11/2014 **Allegations concerning an Order relating to laws in respect of sharia crimes and any matter connected therewith, which is cited as the Syariah [sharia] Penal Code Order, 2013 (SPC).**

85. The Special Rapporteur takes note of the information provided by the Government that more information would be provided to the Rapporteur as soon as possible.

86. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT). The last communication from the Government was on 13 November 2014, and the information requested has still not been provided to the Special Rapporteur.

87. In the absence of sufficient information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Brunei Darussalam, by intending to enact an order that allows for mandatory death penalty for offenses that do not reach the threshold of 'serious crime,' the use of corporal punishment, discrimination against women, and the restriction of freedom of religion and expression, violates the right of persons to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Cambodia

JUA 28/02/2014 Case No. KHM 2/2014 State Reply: None to date **Allegations of indiscriminate and excessive use of force against protestors, including peaceful ones, leading to the death of at least four people and several injured, as well as the arbitrary arrests, and incommunicado detention of 23 individuals in early January 2014.**

88. The Special Rapporteur regrets that the Government of Cambodia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

89. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Cambodja, by failing to protect the physical and psychological integrity of the protesters and ensure adequate detention conditions, including refraining from incommunicado detention, has violated the right of these individuals to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## China

**(a)** JUA 24/12/2013 Case No. CHN 14/2013 State Reply: 21/02/2014 **Allegations concerning the situation of Ms. Liu Xia, Chinese national and wife of Nobel Peace Prize winner, Mr. Liu Xiaobo.**

90. The Special Rapporteur thanks the Government of China for its reply, dated 21.02.2014, to the present communication.

91. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

92. In the absence of convincing information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of China, by failing to protect the physical and psychological integrity of Ms. Liu Xia, including by denying her access to adequate medical attention, has violated her right to be free from torture or cruel, inhuman or degrading treatment, as codified, inter alia in the articles 1 and 16 of the CAT

**(b)** JUA 04/03/2014 Case No. CHN 2/2014 State Reply: None to date Allegations concerning the deteriorating **health of Ms. Cao Shunli while in detention.**

93. The Special Rapporteur regrets that the Government of China has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

94. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of China, by failing to protect the physical and psychological integrity of Ms. Cao Shunli, including by denying her access to adequate medical attention, has violated her right to be free from torture or cruel, inhuman or degrading treatment, as codified, inter alia in the articles 1 and 16 of the CAT.

**(c)** JUA 01/04/2014 Case No. CHN 3/2014 State Reply: 30/05/2014 **Allegations of incommunicado detention of human rights lawyer Mr. Gao Zhisheng.**

95. The Special Rapporteur thanks the Government of China for its reply, dated 30.05.2014, to the present communication.

96. The Rapporteur takes note of the information provided by the Governement in its reply; however he finds that the Government does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

97. In the absence of convincing information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of China, by failing to protect the physical and psychological integrity of Mr. Gao Zhisheng, including by subjecting him to incommunicado detention, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as codified, inter alia in the articles 1 and 16 of the CAT.

**(d)** JUA 08/04/2014 Case No. CHN 5/2014 State Reply: 19/06/2014 **Allegations of ongoing arbitrary detention and prolonged solitary confinement of Mr. Wang Bingzhang and his deteriorating health while in detention.**

98. The Special Rapporteur thanks the Government of China for its reply, dated 19.06.2014, to the present communication.

99. The Rapporteur takes note of the information provided by the Governement in its reply; however he finds that the Government does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

100. In the absence of convincing information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of China, by failing to protect the physical and psychological integrity of Mr. Wang Bingzhang, including by subjecting him to prolonged solitary confinement, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as codified, inter alia in the articles 1 and 16 of the CAT.

**(e)** JUA 05/05/2014 Case No. CHN 6/2014 State Reply: None to date **Allegations of arrest and ill-treatment in detention of Ms. Ge Zhihui**

101. The Special Rapporteur regrets that the Government of China has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

102. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of China, by failing to protect the physical and psychological integrity of Ms. Ge Zhihui, has violated her right to be free from torture or cruel, inhuman or degrading treatment, as codified, inter alia in the articles 1 and 16 of the CAT.

**(f) JUA 16/07/2014 Case No. CHN 7/2014 State Reply: 20/08/2014 Allegations of arrest, detention, and harassment of human rights defenders surrounding the 25th anniversary of the Tiananmen Square Protests.**

103. The Special Rapporteur thanks the Government of China (People's Republic of) for its reply, dated 20 August 2014, to the present communication.

104. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply of 20 August 2014.

105. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

**(g)** JUA 23/10/2014 Case No. CHN 9/2014 State Reply: None to date **Allegations of arbitrary detention and enforced disappearance of Ms. Liu Xizhen in connection to her legitimate human rights activities, and the exercise of her rights to freedom of opinion and expression and peaceful association.**

106. The Special Rapporteur regrets that the Government of China (People's Republic of) has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

107. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Government of China (People's Republic of), by arbitrarily detaining Ms. Liu Xizhen and repressing her rights to freedom of opinion, expression, and peaceful association, has violated her right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(h)** **JUA** 30/10/2014 Case No. **CHN 10/2014** State Reply: 08/12/2014 **Allegations concerning the sentencing of Ms. Liu Ping to six and a half years' imprisonment, as well as ill-treatment and denial of medical treatment in detention.**

108. The Special Rapporteur thanks the Government of the People's Republic of China for its reply, dated 8 December 2014, to the present communication.

109. The Rapporteur takes note of the information provided by the Government that Ms. Liu Ping's conviction was upheld on appeal.

110. The Rapporteur finds that the Government in its reply does not sufficiently address the concerns raised in the initial communication, and therefore fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. Likewise, it fails to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

111. In the absence of sufficient evidence to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus that the Government of the People's Republic of China, by failing to investigate allegations of torture, has violated Ms. Liu Ping's right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Colombia

JUA 23/01/2014 Case No. COL 1/2014 State Replies: 14/04/2014 and 22/04/2014 Alegaciones relativas al peligro inminente de asesinato del Sr. Flaminio Onogama Gutiérrez, líder del pueblo indígena Embera Chamí, y del asesinato de los Sres. Berlain

Saigama Javari y Jhon Braulio Saigama, también líderes del pueblo indígena Embera Chamí, por supuestos miembros de los "grupos armados ilegales post desmovilización" que harían presencia en la comunidad de La Esperanza, ubicada en el municipio de El Dovio, en el departamento del Valle del Cauca, en Colombia.

112. El Relator Especial agradece al Gobierno de Colombia por sus respuestas, de fechas 14 y 22 de abril del 2014, acusando recibo de la presente comunicación.

113. El Relator Especial aprecia el esfuerzo del Gobierno en responder detalladamente a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre las alegaciones relativas al peligro inminente de asesinato del Sr. Flaminio Onogama Gutiérrez y del asesinato de los Sres. Berlain Saigama Javari y Jhon Braulio Saigama, líderes del pueblo indígena Embera Chamí.

114. El Relator Especial toma nota de la información ofrecida por el Gobierno sobre la veracidad de las alegaciones presentadas; sobre la existencia de quejas presentadas por las víctimas o en nombre de ellas; sobre las medidas adoptadas para garantizar el derecho a la vida del Sr. Flaminio Onogama Gutiérrez y su integridad física; sobre las investigaciones que se encuentran en curso a raíz de la muerte de los Sres. Sres. Berlain Saigama Javari y Jhon Braulio Saigama y sobre las medidas tomadas por el gobierno para resguardar los derechos humanos del pueblo Embera. No obstante, el Relator Especial desea hacer referencia a los artículos 3 y 6 de la Declaración Universal de Derechos Humanos y el Pacto Internacional de Derechos Civiles y Políticos, que garantizan a todo individuo el derecho a la vida y a la seguridad de su persona y disponen que este derecho sea protegido por la ley y que nadie sea arbitrariamente privado de su vida. Es obligación del Estado establecer la infraestructura institucional necesaria para prevenir posibles violaciones a estos derechos. Asimismo, el Relator Especial desea hacer referencia al Gobierno a los artículos 7 y 12 de la Convención contra la Tortura en relación al deber del Gobierno de investigar los asesinatos, así como al párrafo 7(b) de la Resolución 16/23 del Consejo de Derechos Humanos. Por tanto solicita al Gobierno de Colombia que lo mantenga al tanto de la evolución de las investigaciones judiciales. En cuanto a las medidas llevadas a cabo por el Gobierno de Colombia ante las amenazas sufridas por el Sr. Flaminio Onogama Gutiérrez, el Relator Especial considera suficientes las medidas de seguridad tomadas por el Gobierno, que incluyen un hombre de protección, un apoyo de transporte y un medio de comunicación.

115. Sin embargo, el Relator Especial insiste en conocer el resultado de las investigaciones sobre los asesinatos de los Sres. Berlain Saigama Javari y Jhon Braulio Saigama, para poder determinar si el Gobierno de Colombia ha actuado con la debida diligencia para responder a hechos graves que prima facie constituyen violación a los derechos de esas personas a no ser torturados o sometidos a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT.

## Congo (Republic of the)

JAL 21/07/2014 Case No. COG 2/2014 State Reply: 05/09/2014, 15/10/2014 and 15/10/2014 **Allégations concernant la situation de ressortissants de la République Démocratique du Congo expulsés par les forces de l'ordre congolaises (République du Congo) depuis le mois d'avril de l'année 2014.**

116. Le Rapporteur spécial remercie le gouvernement de la République du Congo pour ses réponses, datées du 5 septembre 2014 et du 15 octobre 2014, à la présente communication.

117. Le Rapporteur accueille avec intérêt l'information fournie par le gouvernement, notamment sur les enquêtes préliminaires effectuées au sujet de ces allégations. De plus, le Rapporteur prend note de l'information fournie par le gouvernement selon laquelle

l'opération « Mbata ya bakolo » a entrainé des incidents de violence. A cause de cette violence, des étrangers ont été blessés. Le Rapporteur note également que cette opération a inclus l'expulsion sommaire de beaucoup d'étrangers sans que ceux-ci n'aient eu la possibilité de contester cette expulsion ou donner un justificatif de leur présence dans le pays. Le Rapporteur note l'importance de combattre la violence urbaine qui peut être attribuée aux étrangers habitant illégalement dans le pays. Toutefois, le Rapporteur voudrait souligner que bien que le gouvernement doive poursuivre ces personnes pour leurs crimes, l'expulsion sommaire d'étrangers présente le risque de violer les droits des étrangers sous la CCT.

118. Le Rapporteur estime que le gouvernement, dans sa réponse, ne répond pas suffisamment aux préoccupations, obligations légales, et questions soulevées dans la communication initiale, ce qui le pousse à déduire que le gouvernement ne coopère pas pleinement avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13, et ne se conforme pas à son obligation, en vertu du droit international coutumier, d'enquêter, poursuivre, et punir tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture autres peines ou traitements cruels, inhumains ou dégradants (CCT).

119. En particulier, le Rapporteur est préoccupé par le fait que dans sa réponse, le gouvernement n'explique pas suffisamment pourquoi il n'a pas ouvert d'enquête sur les allégations d'utilisation disproportionnée de la force, ni poursuivi ni puni ceux qui ont potentiellement violé l'interdiction absolue de la torture et des traitements cruels, inhumains et dégradants. En plus, en ne permettant pas aux personnes concernées de contester leur expulsion sommaire, le gouvernement a potentiellement violé les droits de ces étrangers à un recours concernant la torture ou les traitements cruels, inhumains ou dégradants dont ils ont souffert.

120. En l'absence d'information suffisante et convaincante prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus, et donc, que le gouvernement de la République du Congo, en expulsant violemment des ressortissants de la République Démocratique du Congo, a violé leur droit de ne pas être soumis à la torture et autres peines ou traitements cruels, inhumains ou dégradants, comme prévu dans les articles 1 et 16 de la CCT.

## Cuba

**(a)** JUA 04/12/2013 Case No. CUB 6/2013 State Reply: 11/02/2014 Alegaciones de abuso físico y psicológico del Sr. Yoeni Jesús Guerra García, quien se encuentra en detención.

121. El Relator Especial agradece al Gobierno de Cuba por su respuesta, de fecha 11 de febrero del 2014, acusando recibo de la presente comunicación.

122. El Relator Especial da cuenta del esfuerzo del Gobierno en responder a las inquietudes presentadas en la comunicación inicial sobre las alegaciones de abuso físico y psicológico del Sr. Yoeni Jesús Guerra García durante su detención.

123. El Relator Especial toma nota de la información ofrecida por el Gobierno sobre la supuesta falsedad de las alegaciones presentadas por la víctima; sobre las quejas presentadas por la madre de la víctima; sobre las investigaciones a raíz de las denuncias de malos tratos físicos, y los exámenes médicos que determinaron que el estado de salud del Sr. Yoeni Jesús Guerra García era favorable.

124. En vista de las contradicciones entre la información presentada por el Estado y las alegaciones de las víctimas, el Relator Especial solicita mayor información al Gobierno de Cuba y a los denunciantes a efectos de dar seguimiento al caso.

(b) JUA 21/07/2014 Case No. CUB 2/2014 State Reply: None to date **Alegaciones en relación con presuntos ataques, amenazas, actos de hostigamiento y detención de defensores y defensoras de derechos humanos en Cuba.**

125. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Cuba no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

126. Ante la falta de información que indique lo contrario, el Relator concluye que el Gobierno de Cuba, al no tomar medidas para proteger la integridad física y psicológica de los Sres. Roberto de Jesús Guerra Pérez, Jorge Luis García Pérez "Antúnez", Ciro Alexis Casanova Pérez y la Sra. Yris Pérez Aguilera –defensores de derechos humanos-, es responsable por sus sufrimientos físicos y mentales y ha violado sus derechos a no ser torturados o sometidos a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT.

## Cyprus

(a) JAL 24/04/2014 Case No. CYP 2/2014 State Reply: 01/07/2014 **Allegations concerning the potential refoulement of Mr. A and his family**

127. The Special Rapporteur thanks the Government of Cyprus for its reply, dated 01.07.2014, to the present communication.

128. The Rapporteur welcomes the account of the Government in response to the concerns, legal obligations and questions raised in the initial communication. He takes note of the information provided by the Government that the application for asylum of Mr. A and his family was properly reviewed and rejected by the Government of Cyprus as well as the offices of the United Nations High Commissioner for Refugees; and that Mr. A had access to the appeals procedure after the Government rejected his refugee application. Moreover, the Rapporteur acknowledges the account of the Government regarding the rights and benefits enjoyed by Mr. A and his family while in Cyprus awaiting a decision on his refugee application.

129. Consequently, the Rapporteur concludes that the Government of Cyprus has properly analysed the refugee application of Mr. A and his family and ensured his and his family's enjoyment of rights while awaiting the decision, and has not violated the right of Mr. A to have a fair opportunity to state a claim for refugee or asylee status. Nevertheless, the Rapporteur wishes to assert that the non-refoulement provision in the Convention against Torture (CAT), which is also a customary international law norm, is both more protective and narrower than the non-refoulement norm of the 1951 Convention on the Status of Refugees. The CAT protects only against the risk of torture and ill-treatment, not more general "persecution." But its prohibition is more absolute as it protects from refoulement even persons who do not qualify as refugees or asylees. Article 3 of the CAT still obliges States not to extradite, deport or otherwise return a person to any country or territory where that person could be at risk of torture. Should Mr. A or his family be deported to such a country, Cyprus would violate their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1, 3 and 16 of the CAT.

**(b)** JAL 05/06/2014 Case No. CYP 3/2014 State Reply: 05/08/2014 **Allegations of acts of intimidation and reprisals for cooperation with the UN, its mechanisms and representatives in the field of human rights in the form of the temporary arrest and ill-treatment of Mr. Doros Polykarpou.**

130. The Special Rapporteur thanks the Government of Cyprus for its reply, dated 05.08.2014, to the present communication.

131. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns raised in the initial communication about the allegations of acts of intimidation and reprisals against Mr. Doros Polykarpou for having cooperated with UN Committee Against Torture (UNCAT), which resulted in his temporary arrest and ill-treatment.

132. The Rapporteur takes note of the information provided by the Government about the number of warrants issued against Mr. Polykarpou and their transmission to him both in writing and orally; about the subsequent procedure of payment of two of the three fines; about who has the authority to issue the warrants and who can execute them; about the fact that he was warned orally that if he failed to pay the fine the warrant would be executed during his visit to Mennogeia Detention Center; about the fact that he was allowed to call his wife who is also a lawyer and about the fact that water was offered while in prison. Notwithstanding, the Rapporteur wants to remind the government that Rule 8 b) of the Standard Minimum Rules for the Treatment of Prisoners affirms that untried prisoners shall be kept separate from convicted persons. In the case at hand, Mr. Polykarpou affirms being placed in the same wing as the convicted persons while in Central Prison in Nicosia and the Government's reply does not address this serious allegation.

133. Considering the present scenario, the Rapporteur asks for information regarding any investigation that has been conducted related to the allegations of having been handcuffed throughout his imprisonment and having been denied access to a legal representative. Taking into account the delicate situation of human rights defenders and the seriousness of the allegation of reprisal for accessing the UN system of human rights protection, the Special Rapporteur asks the government to present the letters informing Mr. Polykarpou of the pending warrants or any records that can account for that information being transmitted to him.

## Democratic People's Republic of Korea

JUA 17/12/2013 Case No. PRK 1/2013 State Reply: None to date **Allegations concerning the cases of Mr. Jang Sung-Taek, who was reportedly executed on 12 December 2013 and the executions of Mr. Jang-Lee Yong-ha and Mr. Jang Soo-kee.**

134. The Special Rapporteur regrets that the Government of Democratic People's Republic of Korea has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

135. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a

norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79). In addition, he calls upon retentionist States to end the practice of executions with little or no prior warning given to condemned prisoners and their families (para. 80 (c)).

136. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Democratic People's Republic of Korea, by not taking steps to prevent the execution of Mr. Jang Sung-Taek, Mr. Jang-Lee Yong-ha and Mr. Jang Soo-kee, has violated their right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided by articles 1 and 16 or the CAT.

## Democratic Republic of the Congo

JAL 06/11/2014 Case No. COD 2/2014 State Reply: None to date **Allégations concernant la mort d'une centaine de combattants et des membres de leurs familles dans le camp de Kotakoli, suivant la capitulation du mouvement armé « M 23» et le transfert des membres et de leurs familles dans un camp éloigné de l'est de RDC.**

137. Le Rapporteur spécial regrette que le gouvernement de la République Démocratique du Congo n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13, ainsi qu'à se conformer à son obligation, en vertu du droit international coutumier, d'enquêter, poursuivre, et punir tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

138. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus, et donc, que le gouvernement de la République Démocratique du Congo, en échouant à leur fournir de la nourriture, des médicaments et des soins de santé a violé le droit des combattants du M23 et leurs familles de ne pas être soumis à des peines ou traitements cruels, inhumains ou dégradants, comme prévu dans les articles 1 et 16 de la CCT.

## Egypt

**(a)** JUA 06/12/2013 Case No. EGY 17/2013 State Replies: 27/12/2013 and 21/01/2014 **Allegations of torture and ill-treatment during arrest and the alleged risk of torture and ill-treatment of Mr. Alaa Abd El Fattah while in detention.**

139. The Special Rapporteur thanks the Government of Egypt for its replies, dated 27.12.2013 and 21.01.2014, to the present communication.

140. The Rapporteur takes note of the comprehensive information provided by the Government concerning the circumstances of, and legal basis for, the arrest and detention of Mr. Fattah. In particular, the Rapporteur notes that physical injuries have been discovered and that investigation has been initiated, including the documentation of the injuries by a forensic medicine department, to determine its causes.

141. The Special rapporteur requests the Government of Egypt to share with him the results of this investigation as soon as possible.

**(b)** JUA 06/12/2013 Case No. EGY 17/2013 State Replies: 27/12/2013 and 21/01/2014 **Allegations of torture and ill-treatment during arrest and the alleged risk of torture and ill-treatment of Mr. Alaa** JUA 24/12/2013 Case No. EGY 19/2013 State Reply: 13/03/2013 **Allegations of raid on the offices of the human rights organisation Egyptian Centre for Economic and Social Rights (ECESR) by State security forces, as well as the alleged arbitrary arrest of six of its staff (Messrs. Mahmoud Bilal, Moustafa Eissa, Sherif Ashour, Hossam Mohamed Nasr, Sayed Mahmoud El-Sayed and Mohamed Adel) and the ongoing alleged arbitrary detention of one of those staff members (Mr. Mohamed Adel). Alleged arbitrary detention of Messrs. Ahmed Maher and Ahmed Douma, who were arrested on 2 December after a peaceful protest.**

142. The Special Rapporteur thanks the Government of Egypt for its reply, dated 19.03.2014, to the present communication.

143. The Rapporteur takes note of the information provided by the Government that Mr. Mohamed Adel was arrested pursuant to a decision that was unrelated to the Egyptian Centre for Economic and Social Rights.

144. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

145. In the absence of sufficient and convincing information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Egypt, by raiding the offices of the Egyptian Centre for Economic and Social Rights, arbitrarily arresting members of its staff, and arbitrarily arresting and continuing to detain other individuals who were arrested on 2 December after a peaceful protest, has violated the right of the aforementioned individuals to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(c)** JUA 27/12/2013 Case No. EGY 20/2013 State Reply: None to date **Allegations of enforced disappearances of Messrs. Khaled al-Qazzaz, Ayman al-Serafy and**

**Abdelmeguid Mashali, and the alleged incommunicado detention of Messrs. Essam al-Haddad and Ayman Ali.**

146. The Special Rapporteur regrets that the Government of Egypt has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

147. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Egypt, by failing to prevent incommunicado detention, and protect the physical and psychological integrity, of Messrs. Khaled al-Qazzaz, Ayman al-Serafy, Abdelmeguid Mashali, Essam al-Haddad and Ayman Ali has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

148. In early January 2015, the Special Rapporteur learned that a court had ordered the release from custody of Mr. al-Qazzaz; however, as of January 6 that order had yet to be implemented.

**(d)** JUA 22/01/2014 Case No. EGY 2/2014 State Reply: 25/03/2014 **Allegations concerning the circumstances of the death of Mrs. Mahrousa Badawy Ragab, as well as the threats against and intimidation of her son, Mr. Hany Saeed, a lawyer, and his wife.**

149. The Special Rapporteur thanks the Government of Egypt for its reply, dated 25.03.2014, to the present communication.

150. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply of 25.03.2014.

151. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply. Meanwhile, he takes the opportunity to invite the Government of Egypt to keep him informed on developments in the investigation of the case in question.

**(e)** JUA 17/04/2014 Case No. EGY 4/2014 State Reply: None to date **Allegations of arbitrary arrest, detention and sentencing of four individuals on the basis of their sexual orientation and/or gender identity, as well as allegations of physical violence, including sexual violence and attempted rape by other prisoners while in detention.**

152. The Special Rapporteur regrets that the Government of Egypt has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

153. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Egypt, by failing to protect the physical and psychological integrity of Messrs. A, B, C and D, thereby paving the way for violence, including sexual violence and attempted rape by other prisoners while in detention, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(f)** JUA 20/05/2014 Case No. EGY 7/2014 State Reply: 05/06/2014 **Allegations concerning the continued detention of Mr. Abdullah el-Shamy and the alleged denial of medical care in detention as well as the use of solitary confinement.**

154. The Special Rapporteur thanks the Government of Egypt for its reply, dated 06.06.2014, to the present communication.

155. The Rapporteur takes note of the information provided by the Government that Mr. el-Shamy was arrested on accusations of using a firearm on members of the security forces. The Rapporteur also notes that the case, as of the date of the reply, was still in the investigatory phase.

156. However, eight months later, as of the drafting of this report, the Rapporteur has not received any further information from the Government of Egypt regarding the investigation.

157. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

158. In the absence of sufficient and compelling information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Egypt, by failing to formally charge Mr. el-Shamy, by denying him proper medical treatment, by subjecting him to prolonged solitary confinement, and by denying him proper access to his lawyer, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(g)** **JUA** 26/06/2014 Case No. EGY 9/2014 State Reply: 04/07/2014 **Allegations concerning the confirmation of mass death sentences against 220 individuals by a criminal court in Minya, Egpyt.**

159. The Special Rapporteur thanks the Government of Egypt for its reply, dated 04 July 2014, to the present communication.

160. The Rapporteur takes note of the information provided by the Government that 37 individuals were sentenced to death by a criminal court in Minya, Egypt, and that these sentences were immediately appealed.

161. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, thereby failing to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. The Government fails as well to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

162. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur

calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

163. It has come to the attention of the Special Rapporteur that the execution of 183 individuals has been called off. The Rapporteur welcomes the decision of the Government of Egypt to refrain from executing these persons. However, he also notes that, as of the drafting of this report, the execution of the 37 individuals has not yet taken place but neither has it been called off. The Rapporteur strongly urges the Government of Egypt to refrain from executing these 37 individuals, as well as to refrain from, and abolish, the practice of executions.

**(h)** **JUA** 09/09/2014 Case No. EGY 12/2014 State Reply: 31/10/2014 **Allegations of arbitrary detention of Mr. Khaled Al-Qazzaz and alleged failure to provide him with adequate medical treatment.**

164. The Special Rapporteur thanks the Government of Egypt for its reply, dated 31 October 2014, to the present communication. The Rapporteur notes that Mr. Al-Qazzaz was released last month.

165. The Rapporteur takes note of the information provided by the Government that Mr. Khaled Al-Qazzaz's case is currently on appeal and, concerning detention conditions, is receiving medical treatment, but regrets that the Government supplies little information concerning what Mr. Kahled Al-Qazzaz was charged with, raising concerns that his detention is arbitrary.

166. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, thereby not fully and expeditiously cooperating with the mandate issued by the Human Rights Council in its resolution 25/13. The State also fails to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

167. In the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and it runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

168. In the absence of convincing information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Egypt, in the detention of Mr. Khaled Al-Qazzaz, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. With regards to the present case, the Special Rapporteur recalls paragraph 6 of General Comment No. 20 of the Human Rights Committee as well as article 7 of the Basic Principles for the Treatment of Prisoners (Adopted by the General Assembly by resolution 45/111 of 14 December 1990).

(i) JUA 03/10/2014 Case No. EGY 13/2014 State Reply: None to date **Allegations of arbitrary arrest, detention, torture and other cruel, inhuman or degrading treatment or punishment, including sexual abuse and rape of 50 juveniles and of two 18-year-olds in Koum el Dekka prison, Montaza District, Alexandria by X, Y, and Z, and alleged refusal of the Public Prosecutor and the Court of Misdemeanors of Alexandria to open investigations into those allegations.**

169. The Special Rapporteur regrets that the Government of Egypt has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

170. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Government of Egypt, by failing to investigate and prosecute the allegations of arbitrary arrest, detention, torture and other cruel, **inhuman or degrading treatment or punishment, including sexual abuse and rape of 50 juveniles and of two 18-year-olds,** has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## El Salvador

JAL 02/10/2014 Case No. SLV 1/2014 State Reply: None to date **Alegaciones respecto a los casos de 17 mujeres que cumplen penas de prisión por cuestiones relacionadas con el embarazo así como la penalización del aborto en El Salvador que no parece estar en conformidad con las leyes y normas internacionales de derechos humanos, ya que continúa restringiendo el derecho de las mujeres y las niñas a la integridad física y al más alto nivel posible de salud física y mental.**

171. El Relator Especial lamenta que, hasta la fecha, el Gobierno de El Salvador no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

172. Ante la falta de información que indique lo contrario, el Relator concluye que el Gobierno de El Salvador, al no preservar la integridad física y mental de las mujeres y niñas en prisión acusadas de haberse realizado un aborto, es responsable por sus sufrimientos físicos y mentales y ha violado sus derechos a no ser sometidas a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT.

## Eritrea

(a) JUA 20/05/2014 Case No. ERI 1/2014 State Reply: None to date **Allegations of persecution, arrest and incommunicado detention of Mr. A, Mr. B, Mr. C, Mr. D and Mr. E.**

173. The Special Rapporteur regrets that the Government of Eritrea has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human

Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

174. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Eritrea, by failing to prevent incommunicado detention, and protect the physical and psychological integrity, of Messrs. A, B, C, D and E has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(b)** JUA 18/06/2014 Case No. ERI 2/2014 State Reply: None to date **Allegations concerning reports that security personnel in plain clothes arrested H.E. Mr. Mohamed Ali Omaro, Ambassador of Eritrea to Nigeria, on 29 April 2014 in Asmara.**

175. The Special Rapporteur regrets that the Government of Eritrea has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

176. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Government of Eritrea, by allowing security personnel to arbitrarily arrest and detain H.E. Mr. Mohamed Ali Omaro, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Ethiopia

**(a)** JUA 15/04/2014 Case No. ETH 2/2014 State Reply: None to date **Allegations of arbitrary detention, torture, ill-treatment and unfair trial of Mr. Mohamed Aweys Mudey.**

177. The Special Rapporteur regrets that the Government of Ethiopia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

178. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Ethiopia, by failing to protect the physical and psychological integrity of Mr. Mohamed Aweys Mudey and exclude evidence obtained under torture or ill-treatment from proceedings against him, has failed to act in accordance with article 15 of the CAT and violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(b)** JUA 30/04/2014 Case No. ETH 3/2014 State Reply: None to date **Allegations concerning the arrest of six members of Zone Nine: Messrs. Befeqadu Hailu, Atenaf Berahane, Zelalem Kibret, Natnael Feleke and Abel Wabela, and Ms. Mahlet Fantahun, and three freelance journalists: Messrs. Tesfalem Waldyes and Asmamaw Giorigis, and Ms. Edom Kasaye.**

179. The Special Rapporteur regrets that the Government of Ethiopia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

180. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Ethiopia, by failing to prevent incommunicado detention and protect the physical and psychological integrity of Mss. Mahlet Fantahun and Edom Kasaye, and Messrs. Befeqadu Hailu, Atenaf Berahane, Zelalem Kibret, Natnael Feleke, Abel Wabela, Tesfalem Waldyes and Asmamaw Giorigis, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(c) JUA 22/05/2014 Case No. ETH 5/2014 State Reply: None to date **Allegations concerning the violent handling of peaceful protests in opposition to the "Integrated Development Master Plan" in the regional state of Oromia, and mass arrests and arbitrary detentions of peaceful protestors and bystanders.**

181. The Special Rapporteur regrets that the Government of Ethiopia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

182. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Ethiopia, by failing to protect the physical and psychological integrity of the protesters up to and during detention, and ensure adequate detention conditions, including refraining from incommunicado detention, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(d) **JUA** 11/07/2014 Case No. ETH 6/2014 State Reply: 11/11/2014 **Allegations of arbitrary detention, torture, ill-treatment and unfair trial of Mr. Ali Adorus, a British citizen.**

183. The Special Rapporteur thanks the Government of Ethiopia for its reply, dated 11 November 2014, to the present communication.

184. The Rapporteur takes note of the information provided by the Government that Mr. Ali Adorus' case is up for decision.

185. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, thereby failing fully and expeditiously to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. The State similarly fails to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT). Specifically, no information is provided about Mr. Ali Adorus' detention conditions before his transfer to Kaliti Prison, including the allegations that he was subjected to torture and ill-treatment. Additionally, sufficient information was not provided concerning the substance of materials used against Mr. Ali Adorus at trial, such as the alleged forced confession.

186. The CAT, which Ethiopia acceded on 14 March 1994, prohibits torture absolutely without exception in article 1 and prohibits the use of any evidence in any proceedings obtained under torture in article 15.

187. In the absence of convincing information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Ethiopia has violated the right of Mr. Ali Adorus to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Equatorial Guinea

JUA 23/12/2013 Case No. GNQ 3/2013 State Reply: None to date **Alegaciones relativas al arresto y la detención del Sr. Agustín Esono Nsogo.**

188. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Guinea Ecuatorial no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

189. Ante la falta de información que indique lo contrario, el Relator concluye que el Gobierno de Guinea Ecuatorial, al no tomar medidas para proteger la integridad física y psicológica del Sr. Agustín Esono Nsogo y privarlo de comunicación con el mundo exterior, es responsable por el sufrimiento físico y mental del Sr. Nsogo y ha violado el derecho de este último a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT.

## Fiji

JUA 16/01/2014 Case No. FJI 1/2014 State Reply: None to date **Allegations concerning Ms. A, a 21 year old woman who was allegedly abducted and raped by her ex-boyfriend. Ms. A was then detained and charged with giving false information after reporting these incidents to the police.**

190. The Special Rapporteur regrets that the Government of Fiji has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

191. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Fiji, by failing to protect the physical and psychological integrity of Ms. A and her relative, including protecting them from threats and intimidation by the alleged perpetrator and his friends, as well as from violence and coercion by the police, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Guatemala

JAL 02/05/2014 Case No. GTM 4/2014 State Reply: None to date **Alegaciones relativas a las sanciones emitidas por el Tribunal de Honor del Colegio de Abogados y Notarios de Guatemala en contra de la Jueza Yassmín Barrios.**

192. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Guatemala no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

193. Ante la falta de información que indique lo contrario, el Relator concluye que el Gobierno de Guatemala, a través de las sanciones emitidas por el Tribunal de Honor del Colegio de Abogados y Notarios de Guatemala las cuales tienen como efecto intimidar y amenazar a los operadores de justicia, es responsable por las sanciones con propósitos intimidatorios emitidas por el Tribunal y ha violado el derecho de la Jueza Yassmín Barrios o a no ser sometida a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT.

## Honduras

JAL 26/05/2014 Case No. HND 5/2014 State Reply: None to date **Alegaciones relativas a la agresión, maltrato, sustracción de pertenencias por parte de agentes del orden, y detención del Sr. José Guadalupe Ruelas García.**

194. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Honduras no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

195. Ante la falta de información que indique lo contrario, el Relator concluye que el Gobierno de Honduras, al no tomar medidas para proteger la integridad física del Sr. José Guadalupe Ruelas García quien fue golpeado en su rostro, torso, cabeza, espalda y piernas sin recibir luego atención médica, es responsable por sus lesiones físicas y psicológicas y ha violado el derecho de la víctima a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT.

## India

**(a)** AL 12/12/2013 Case No. IND 11/2013 State Reply: None to date **Allegations concerning the cases of Mr. A, Mr. Mondal Chhanarul, Mr. Sardar Majim, Mr. Molla Boltu, Mr. Mondal Rajan, Mr. Golam Mostafa, Mr. Islam Sariful, Mr. Jiyad Ali Gazi, Ms. Kunuwara Bibi, Ms. Sujar Bibi and Ms. Talisma Bibi, who have reportedly suffered from torture and ill treatment by the Border Security Forces in the West Bengal Region, and that such acts remain in impunity as do 200 documented cases of the same nature.**

196. The Special Rapporteur regrets that the Government of India has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

197. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of India, by failing to prevent violence on the part of Border Security Forces, and protect the physical and psychological integrity of Mr. A, Mr. Mondal Chhanarul, Mr. Sardar Majim, Mr. Molla Boltu, Mr. Mondal Rajan, Mr. Golam Mostafa, Mr. Islam Sariful, Mr. Jiyad Ali Gazi, Ms. Kunuwara Bibi, Ms. Sujar Bibi and Ms. Talisma Bibi, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

198. The Special Rapporteur urges the Government of India to break the cycle of impunity for acts of this nature by its security forces, by complying with its international obligation to investigate, prosecute and punish every act of torture or ill-treatment.

**(b)** JAL 10/01/2014 Case No. IND 1/2014 State Reply: 17/01/2014 **Allegations concerning the death in custody of Mr. A, aged 24, citizen of India, resident of B village, Jhunjhunu district, Rajasthan, India.**

199. The Special Rapporteur thanks the Government of India for its reply, dated 10.01.2014, to the present communication.

200. The Special Rapporteur regrets that the Government of India has not provided any substantive reply to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

201. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of India failed to investigate the claim of torture in detention resulting on the death of the victim, and statements made under torture against him. India thereby has failed to protect individuals held in custody from torture and mistreatment, and by refusing Mr. A access to his family and his lawyer, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(c)** JAL 01/07/2014 Case No. IND 4/2014 State Reply: None to date **Allegations of gang-rape and murder of Ms. X and Ms. Y, two teenage Maurva girls in the village of Saadatgani (Badaun District of Uttar Pradesh).**

202. The Special Rapporteur regrets that the Government of India has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

203. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Government of India, by failing to investigate the alleged kidnappings, rapes, and murders of Ms. X and Ms. Y because they were of a lower caste, has violated their

right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Indonesia

**(a)** JAL 01/05/2014 Case No. IDN 2/2014 State Reply: None to date **Allegations concerning the violent dispersal of a demonstration in Jayapura, West Papua, on 2 April 2014, and the arrest and torture of two student demonstrators, Mr. Alfares Kapisa and Mr. Yali Wenda.**

204. The Special Rapporteur regrets that the Government of Indonesia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

205. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Indonesia, by failing to protect the physical and psychological integrity of the demonstrators up to the arrest and during detention and from threats and intimidation following their release, has violated the right of Messrs. Kapisa and Wenda to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(b)** JAL 16/12/2013 Case No. IDN 5/2013 State Reply: None to **date Allegations concerning torture and death in custody of Mr. Aslin Zalim, a 34-year-old civil** servant in Bau-Bau, South East Sulawesi, Indonesia, and torture of two other detainees.

206. The Special Rapporteur regrets that the Government of Indonesia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

207. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Indonesia, by failing to prevent the death of Mr. Aslin Zalim and protect the physical and psychological integrity of the three detainees, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. The State is urged to conduct a fair and impartial investigation into the incidents and to prosecute and punish those responsible.

**(c)** JUA 13/06/2014 Case No. IDN 3/2014 State Reply: None to date **Allegations concerning Ms. X, a 26 year old girl who was allegedly gang raped and now faces threat of corporal punishment by caning.**

208. The Special Rapporteur regrets that the Government of Indonesia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

209. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Government of Indonesia, by using corporal punishment in response to Ms. X's alleged extramarital sex - when in fact she was the victim of gang rape-, has violated her right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

210. The Rapporteur wishes to stress that corporal punishment of any sort is always torture in violation of international law, even if judicially imposed.

## Iran (Islamic Republic of)

**(a)** JAL 30/12/2013 Case No. IRN 24/2013 State Reply: None to date **Allegations concerning the ongoing deterioration of Mr. Zanyar Moradi's state of health, who is reportedly suffering from a fracture of his lumbar vertebrae and severe chest pain due to a broken rib allegedly caused by the torture at the hands of Intelligence officials.**

211. The Special Rapporteur regrets that the Government of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

212. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Iran, by failing to protect the physical and psychological integrity of Mr. Zanyar Moradi, including by denying him access to adequate medical attention, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. The State is urged to conduct a fair and impartial investigation into the incident and to prosecute and punish those responsible.

**(b)** JAL 30/12/2013 Case No. IRN 25/2013 State Reply: None to date **Allegations of recent secret executions of four ethnic Arab prisoners: Messrs, Ghazi Abasi, Abdolreza Amir Khanafereh, Abdolamir Mojadami and Jasem Moghadam Panah, who were reportedly executed without authorities notifying their lawyers.**

213. The Special Rapporteur regrets that the Government of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

214. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79). In addition, he calls upon retentionist States

to end the practice of executions with little or no prior warning given to condemned prisoners and their families (para. 80 (c)).

215. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Iran, by not taking steps to prevent the execution of Messrs. Ghazi Abasi, Abdolreza Amir Khanafereh, Abdolamir Mojadami and Jasem Moghadam Panah, has violated their right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided by articles 1 and 16 or the CAT.

**(c)** JUA 28/02/2014 Case No. IRN 1/2014 State Reply: None to date **Allegations concerning the cases of Mr. Rouhollah Tavani and Ms. Farzaneh Moradi, who are currently at risk of imminent execution in the Islamic Republic of Iran.**

216. The Special Rapporteur regrets that the Government of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

217. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

218. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Iran, by not taking steps to prevent the execution of Mr. Rouhollah Tavani and Ms. Farzaneh Moradi, violates their right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided by articles 1 and 16 or the CAT. The State is urged to refrain from carrying out their executions.

**(d)** JUA 24/03/2014 Case No. IRN 4/2014 State Reply: 30/06/2014 **Allegations concerning the deteriorating health of Mr. Mohammad Reza Pourshajari, who has been in prison since 2010.**

219. The Special Rapporteur thanks the Government of Iran for its reply, dated 30.06.2014, to the present communication.

220. The Rapporteur takes note of the information provided by the Government that Mr. Pourshajari has seen several doctors who, after medical examinations, have determined that he does not suffer from any health conditions.

221. Overall, the Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

222. In the absence of sufficient information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Iran fails to detail the results of the medical examinations of Mr. Pourshajari or to show that they were conducted under conditions of independence, impartiality and competence. Its reply also failed to address the legal basis for Mr. Pourshajari's detention or provide details of steps taken to ensure the health of Mr. Pourshajari. The Rapporteur concludes that the Government of Iran has violated the right of Mr. Pourshajari to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(e)** JUA 31/03/2014 Case No. IRN 5/2014 State Reply: None to date **Allegations concerning the imminent execution of two individuals Mr. Ali Chebeishat and Mr. Sayed Khaled Mousawi.**

223. The Special Rapporteur regrets that the Government of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

224. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

225. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Iran, by failing to protect the physical and psychological integrity of Mr. Salman Chayani, Mr. Ali Chebeishat and Mr. Sayed Khaled Mousawi, exclude evidence obtained under torture or ill-treatment, and take steps to prevent the execution of the latter two, has acted in discordance with article 15 of the CAT, and violated their right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided by articles 1 and 16 or the CAT. The Special Rapporteur urges the State of Iran to refrain from executing these two persons.

**(f)** JUA 14/04/2014 Case No. IRN 6/2014 State Reply: None to date **Allegations concerning the case of Ms. Rayhaneh Jabbari, who is reportedly at risk of imminent execution.**

226. The Special Rapporteur regrets that the Government of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

227. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and

other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

228. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Iran, by failing to protect the physical and psychological integrity of Ms. Rayhaneh Jabbari, exclude evidence obtained under torture or ill-treatment, and take steps to prevent her execution, has acted in discordance with article 15 of the CAT, and violated her right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided by articles 1 and 16 or the CAT.

229. It has from other hand come to the attention of the Special Rapporteur, that Ms. Rayhaneh Jabbari was executed on 25 October 2014. The Rapporteur strongly condemns the execution and calls on the Government of Iran to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, prosecute and punish the responsible for those acts, and to provide redress to the victim's family for the torture and execution of Ms. Rayhaneh Jabbari.

**(g)** JUA 11/06/2014 Case No. IRN 9/2014 State Reply: None to date **Allegations of acts of intimidation and reprisals in the form of the ill-treatment of detainees, including six human rights defenders detained in Evin prison.**

230. The Special Rapporteur regrets that the Government of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

231. It is alleged that Messrs. Omid Behrouzi, Behnam Ebrahimzadeh, Mohammad Sadiq Kabudvand, Sa'id Metinpour, Hossein Ronaghi-Maleki, and Abdolfattah Soltani, detainees in Evin prison, were beaten, placed in solitary confinement, and deprived of adequate medical treatment. Additionally, Mr. Mentipour was reportedly forced to strip naked and undergo head shaving, and Mr. Soltani was handcuffed and forced to undergo head shaving. These allegations are especially concerning given that the ill-treatment may have been an act of reprisal due to the engagement of the men with the United Nations and its human rights mechanisms.

232. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for twenty-two to twenty-four hours a day. It has been convincingly documented on numerous occasions that solitary confinement may cause serious psychological and sometimes physiological ill effects. When the element of psychological pressure is used on purpose as part of isolation regimes such practices become coercive and can amount to torture. Moreover, solitary confinement places individuals very far out of sight of justice, exacerbating abusive practices such as arbitrary detentions.

233. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and

thus, that the Government of Iran, by failing to prevent the arbitrary detention, physical abuse, and solitary confinement of Messrs. Omid Behrouzi, Behnam Ebrahimzadeh, Mohammad Sadiq Kabudvand, Sa'id Metinpour, Hossein Ronaghi-Maleki, and Abdolfattah Soltani, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(h)** JUA 17/06/2014 Case No. IRN 10/2014 State Reply: None to date **Allegations concerning the cases of Messrs. Hamed Ahmadi, Kamal Malaee, Jahangir Dehghani and Jamshed Dehghani, who are reportedly at risk of imminent execution, after being transferred to solitary confinement.**

234. The Special Rapporteur regrets that the Government of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

235. As the Special Rapporteur observed, Article 14 of the ICCPR sets out the standards that must be observed before a sentence of death may be carried out. Furthermore, the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides under article 5 that "Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings." Only full respect for stringent due process distinguishes capital punishment as possibly permitted under international law from an arbitrary execution.

236. The men were reportedly placed in solitary confinement, and forced to confess to their involvement in the assassination of a senior Sunni cleric, who was reportedly alive at the time of their arrest, and killed several months later. These confessions should be considered invalid based on paragraph 7c of Human Rights Council Resolution 16/23 which urges States to ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

237. Furthermore, Iran's unrestricted use of solitary confinement, in disregard of article 7 of the Basic Principles for the Treatment of Prisoners, is of grave concern. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for twenty-two to twenty-four hours a day. Due to clearly documented harmful mental health effects of solitarily confinement, it may only be used where absolutely necessary for as short a time as possible. When the element of psychological pressure is used on purpose, as part of isolation regimes, such practices become coercive such that they amount to torture. Moreover, solitary confinement places individuals very far out of sight of justice, exacerbating abusive practices such as arbitrary detentions, which may be at issue in this case.

238. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Iran, by permitting Messrs. Hamed Ahmadi, Kamal Malaee, Jahangir Dehghani and Jamshed Dehghani, to be kept in solitary confinement and

sentenced to execution without due process of law, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. He urges to government of Iran to commute their death sentences and to bring them out of solitary confinement, as well as to investigate and prosecute State agents responsible for their mistreatment.

(i) JUA 14/07/2014 Case No. IRN 13/2014 State Reply: None to date **Allegations concerning the imminent execution of Messrs. Hamed Ahmadi, Shahram Ahmadi, Alam Barmashti, Jahangir Dehghani, Jamshid Dehghani, Seyed Shaho Ebrahimi, Varia Ghaderifard, Mohammad Gharibi, Seyed Abdol Hadi Hosseini, Farzad Honarjo, Mohammad Keyvan Karimi, Taleb Maleki, Kamal Molaee, Pouria Mohammadi, Keyvan Momenifard, Sedigh Mohammadi, Seyed Jamal Mousavi, Teymour Naderizadeh, Farshid Naseri, Ahmad Nasiri, Borzan Nasrollahzadeh, Idris Nemati, Omid Peyvand, Bahman Rahimi, Mokhtar Rahimi, Mohammadyavar Rahimi, Abdorahman Sangani, Amjad Salehi, Behrouz Shahnazari, Arash Sharifi, Kaveh Sharifi, Farzad Shahnazari, and Kaveh Veysi, all Kurdish Sunni Iranians.**

239. The Special Rapporteur regrets that the Government of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

240. It is alleged that between 2009 and 2010, thirty-three Kurdish Sunni men were detained, subjected to substantial physical and psychological torture including mock death and months of solitary confinement, and were sentenced to death. The death sentences of eight of the thirty-three men, Messers. Hamed Ahmadi, Jameshed Dehghani, Jahangir Dehghani, Komal Molaye, Seyed Jamal Mousavi, Abdorahman Sangani, Sedigh Mohammadi and Seyed Hadi Hosseini, have been sent to The Office for the Implementation of Sentences. The other twenty-five men, one of whom, Mr. Borzan Nasrollahzadeh, is reported to have been a minor at the time of his alleged crime, remain on death row, pending review by the Supreme Court.

241. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for twenty-two to twenty-four hours a day. Due to clearly documented harmful mental health effects of solitarily confinement, it may only be used where absolutely necessary for as short a time as possible. Additionally, Paragraph 6 of General Comment No. 20 of the Human Rights Committee states that prolonged solitary confinement of the detained or imprisoned person, may amount to acts prohibited by article 7 of the ICCPR.

242. The thirty-three execution sentences were reportedly ordered without allowing any of the men access to a lawyer. Article 5 of the United Nations Safeguard Protecting the Rights of those Facing Death Penalty states that capital punishment may only be imposed following trials that scrupulously respect the guarantees of due process and fair trial as stipulated in international human rights law. Article 6(2) of the ICCPR provides that countries which have not abolished the death penalty may only impose it for the most serious crimes. Additionally, article 6 (4) of the ICCPR establishes that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Furthermore, any judgment imposing the death sentence and execution of juvenile offenders is incompatible with the international legal obligations undertaken under Iran's Government under various

instruments, including article 6(5) of ICCPR and 37 **(a)** of the Convention on the Rights of the Child (CRC).

243. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

244. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Iran, by permitting Messrs. Hamed Ahmadi, Shahram Ahmadi, Alam Barmashti, Jahangir Dehghani, Jamshid Dehghani, Seyed Shaho Ebrahimi, Varia Ghaderifard, Mohammad Gharibi, Seyed Abdol Hadi Hosseini, Farzad Honarjo, Mohammad Keyvan Karimi, Taleb Maleki, Kamal Molaee, Pouria Mohammadi, Keyvan Momenifard, Sedigh Mohammadi, Seyed Jamal Mousavi, Teymour Naderizadeh, Farshid Naseri, Ahmad Nasiri, Borzan Nasrollahzadeh, Idris Nemati, Omid Peyvand, Bahman Rahimi, Mokhtar Rahimi, Mohammadyavar Rahimi, Abdorahman Sangani, Amjad Salehi, Behrouz Shahnazari, Arash Sharifi, Kaveh Sharifi, Farzad Shahnazari, and Kaveh Veysi, to be physically abused, held in solitary confinement, and sentenced to death without due process of law, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. The Rapporteur urges the government of Iran to commute all of their death sentences, to remove them from solitary confinement, and to investigate and prosecute those State agents who may be responsible for their torture.

**(j)** JUA 21/07/2014 Case No. IRN 14/2014 State Reply: None to date **Allegations concerning the situation of journalists and human rights activists who have been arrested, imprisoned, denied medical assistance, and/or charged in the months of June and July 2014, for exercising their rights to freedom of opinion and expression, peaceful assembly and association.**

245. The Special Rapporteur regrets that the Government of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

246. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the alleged beating of Mr. Mehdi Khazali and the sentencing to lashes of Mr. Mehdi Khazali and Ms. Marzieh Rasouli violate the prohibition of torture under article 7 of the ICCPR, and reiterated in paragraph 1 of Human Rights Council Resolution 16/23. This is especially concerning in light of the allegation that these sentences were ordered as punishment for the prisoners' exercise of free expression and peaceful protest. By permitting the sentencing to lashes of Mr. Mehdi Khazali and Ms. Marzieh Rasouli, the Government of Iran has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(k)** JUA 02/10/2014 Case No. IRN 19/2014 State Reply: None to date **Allegations concerning the imminent execution of Mr. Seyyed Hossein Kazemeyni Boroujerdi in the Islamic Republic of Iran.**

247. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment as codified inter alia, in the Convention against Torture (CAT).

248. The report alleges that Mr. Boroujerdi was sentenced to 11 years in prison and to capital punishmentfor "waging war against God" as well as endangering national security. Since Mr. Boroujerdi's 2007 imprisonment, he has suffered from poor health due to physical abuse, poor prison conditions and other forms of torture. Mr. Boroujerdi has not had access to legal representation or medical treatment since entering prison. On October 1st, 2014, Mr. Boroujerdi was moved to an unknown location in preparation for his execution.

249. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

250. The Special Rapporteur has not been able to confirm whether the execution of Mr. Boroujerdi has taken place. However, he finds that in the event that the Government of the Islamic Republic of Iran fails to stop the execution of Mr. Boroujerdi, it is clearly violating his right to be free form torture or cruel, inhuman or degrading treatment as provided by articles 1 and 16 of the CAT. The Rapporteur strongly urges the Government of the Islamic Republic of Iran to refrain from executing Mr. Boroujerdi, as well as to refrain from, and abolish, the practice of executions.

**(l)** JUA 07/10/2014 Case No. IRN 21/2014 State Reply: None to date **Allegations concerning the imminent risk of execution of Ms. Reyhaneh Jabbari after a trial that did not meet fair trial and due process guarantees.**

251. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment as codified inter alia, in the Convention against Torture (CAT).

252. Ms. Jabbari is in danger of being imminently executed after a trial that did not meet due process standards. Ms. Jabbari was sentenced to death after being convicted of the murder of Mr. Morteza Abdolali Sarbandi, whom Ms. Jabbari claims tried to rape her. Ms. Jabbari was allegedly tortured and forced to confess; she was not allowed adequate legal counsel during her trial.

253. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

254. The Special Rapporteur has not been able to confirm whether the execution of Ms. Jabbari has taken place. However, he finds that in the event that the Government of the Islamic Republic of Iran fails to stop the execution of Ms. Jabbari, it is clearly violating her right to be free form torture or cruel, inhuman or degrading treatment as provided by articles 1 and 16 of the CAT. The Rapporteur strongly urges the Government of the Islamic Republic of Iran to refrain from executing Ms. Jabbari, as well as to refrain from, and abolish, the practice of executions.

**(m)** JUA 14/10/2014 Case No. IRN 23/2014 State Reply: None to date **Allegations concerning the situation of Mr. Saman Naseem, a juvenile offender, who is reportedly at risk of imminent execution in the Islamic Republic of Iran.**

255. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment as codified inter alia, in the Convention against Torture (CAT).

256. Mr. Saman Naseem was arrested on 17 July 2011 for allegedly participating in an armed confrontation between his political party, Party for Free Life of Kurdistan (PJACK), and the Revolutionary Guards. Mr. Naseem was under 18 at the time of his arrest and thus a minor. Mr. Naseem alleges that he was forced to sign a false confession and was reportedly denied legal representation and subjected to torture. Mr. Naseem was sentenced to death for "enmity against God" and is currently awaiting execution.

257. The Special Rapporteur expresses grave concern over the fact that a minor was sentenced to death, an action that is in direct contradiction to international human rights law. The Rapporteur also expresses concern for the lack of due process in Mr. Naseem's trial and sentencing.

258. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

259. It has come to the attention of the The Special Rapporteur that, as of the drafting of this report, the execution of Mr. Naseem has not taken place. The Rapporteur strongly urges

the Government of the Islamic Republic of Iran to refrain from executing him, as well as to refrain from and abolish the practice of executions.

**(n)** JUA 25/11/2014 Case No. IRN 28/2014 State Reply: None to date **Allegations of physical and psychological torture and ill-treatment, including prolonged solitary confinement, the denial of adequate medical care, and introduction of new charges against Dr. Mohammad Ali Taheri, the founder of a spiritual group called Erfan-e-Halgheh (interuniversalism), and the re-arrest of Mr. Mohammad Reza Pourshajari, a blogger in Iran.**

260. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment as codified inter alia, in the Convention against Torture (CAT).

261. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and it runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

262. Being aware of the arbitrary nature of any effort to establish a moment in time when an already harsh regime becomes prolonged and therefore unacceptable, the Special Rapporteur defined that prolonged solitary confinement is any period of solitary confinement in excess of 15 days (A/66/268) under conditions of total isolation. This definition was based on the large majority of scientific studies which indicate that after 15 days of isolation harmful psychological effects often manifest and may even become irreversible. For solitary confinement that includes some mitigating factors, such as access to reading and writing materials, radio or television, the term of legitimate use of isolation may exceed 15 days but would still have to be counted in days, not weeks or months or years. The Special Rapporteur recalls that when used indefinitely or for long periods, solitary confinement amounts to cruel, inhuman or degrading treatment or punishment or even torture, because it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156.

263. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus the Government of the Islamic Republic of Iran, by failing to prevent the physical and psychological torture and ill-treatment, including prolonged solitary confident, the denial of adequate medical care, and the introduction of new charges against Dr. Taheri and the re-arrest of Mr. Pourshaji, has violated their right to be free form torture or cruel, inhuman or degrading treatment as provided by articles 1 and 16 of the CAT.

## Iraq

JUA 17/01/2014 Case No. IRQ 1/2014 State Reply: None to date **Allegations concerning the cases of Messrs. Bara' Ibrahim Muhammad and Taysir Jassim Muhammad, who are at risk of imminent execution.**

264. The Special Rapporteur regrets that the Government of Iraq has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

265. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

266. In the absence of information to the contrary, the Rapporteur concludes that the Government of Iraq has failed to exclude evidence obtained under torture or ill-treatment, has acted in discordance with article 15 of the CAT, and violated their right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided by articles 1 and 16 or the CAT.

267. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the execution of Messrs. Bara' Ibrahim Muhammad and Taysir Jassim Muhammad has not taken place. The Rapporteur strongly urges the Government of the Iraq to refrain from executing Messrs. Bara' Ibrahim Muhammad and Taysir Jassim Muhammad, as well as to refrain from, and abolish, the practice of executions.

## Israel

**(a)** JAL 06/05/2014 Case No. ISR 1/2014 State Reply: None to date **Allegations concerning the ill-treatment and torture of Palestinian children in Israeli custody.**

268. The Special Rapporteur regrets that the Government of Israel has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

269. The allegation letter referred to a pattern of physical and mental mistreatment of under-age Palestinian boys detained by the Israeli Defense Forces (IDF), and included the cases of three children, aged 17, 16 and 14, whose names were withheld because of their age. In each case, IDF members had applied violence to the boys in the course of their detention as well as in forcing them to confess to throwing stones at settlers' vehicles and, in one case, throwing Molotov cocktails and stones in the course of demonstrations. One of

the children was held in solitary confinement for five days. All three were forced to sign confessions under duress, statements that then formed the basis for sentences of several weeks in prison.

270. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and is running afoul the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment

271. The Special Rapporteur recalls that when used or for juveniles, pregnant women, or people with mental disabilities, persons serving life sentences and persons awaiting execution on "death row" (A/66/268 and A/68/295), solitary confinement amounts to cruel, inhuman or degrading treatment or punishment or even torture, even if not used indefinitely or for a prolonged period of time.

272. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Israel, by failing to protect the physical and psychological integrity of the children in question, exclude evidence obtained under torture or ill-treatment from proceedings against them, and take steps to put a stop to the alleged pattern of abuse on the part of Israeli Security Forces, has acted in discordance with article 15 of the CAT and violated, their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(b)** JUA 12/06/2014 Case No. ISR 4/2014 State Reply: None to date **Allegations concerning the arrest and detention of Mr. Ahmad Ishraq Rimawi.**

273. The Special Rapporteur regrets that the Government of Israel has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

274. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Government of Israel, by arbitrarily arresting and detaining Mr. Ahmad Ishraq Rimawi, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(c)** JUA 20/06/2014 Case No. ISR 5/2014 State Reply: None to date Allegations concerning the draft amendment to the Prisons Act (preventing damages due to hunger strikes), to be presented for the second and third readings **at the Knesset on 23 June 2014.**

275. The Special Rapporteur regrets that the Government of Israel has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and

other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

276. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Government of Israel, by passing a bill that would provide for the force-feeding and medical treatment of prisoners against their will, would violate a prisoner's right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(d)** JUA 14/07/2014 Case No. ISR 6/2014 State Reply: None to date **Allegations of arbitrary arrest and detention of Ms. Shireen Issawi, Mr. Medhat Tarek Issawi and Mr. Samer Issawi.**

277. The Special Rapporteur regrets that the Government of Israel has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

278. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Government of Israel, by arbitrarily arresting and detaining Ms. Shireen Issawi, Mr. Medhat Tarek Issawi and Mr. Samer Issawi, has violated these prisoners' right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Italy

JUA 17/12/2013 Case No. ITA 3/2013 State Replies: 30/12/2013, 06/02/2014, 07/03/2014 and 26/03/2014 **Allegations of arbitrary detention in Italy of Mr. Bahar Kimyongür, a journalist and activist, at risk of an imminent extradition to Turkey.** The Special Rapporteur thanks the Government of Italy for its replies, dated 30.12.2013, 06.02.2014, 07.03.2014 and 26.03.2014, to the present communication.

279. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication. He welcomes the information provided by the Government that the Government of Italy has rejected the Turkish extradition request and has released Mr. Kimyongür from house arrest.

280. The Rapporteur welcomes the decision of the Government of Italy to refrain from extraditing him and thereby complying with article 3 of the CAT.

## Kazakhstan

**JUA 21/07/2014 Case No.** KAZ 2/2014 **State Reply:** 22/09/2014 **Allegations concerning the detention, ill-treatment, and failure to conduct a fair and lawful trial to avoid the involuntary detention, and forced psychiatric confinement of a human rights lawyer.**

281. The Special Rapporteur thanks the Government of Kazakhstan for its reply, dated 21 July 2014, to the present communication.

282. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply of 21 July 2014.

283. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

## Kuwait

**JUA** 31/07/2014 Case No. KWT 2/2014 State Replies: 19/09/2014, 08/10/2014 **Allegations concerning the use of force by the police during the peaceful demonstrations in Kuwait City from 2 to 7 July 2014, including the arbitrary detention of a few dozen peaceful protesters, and the infliction of serious injuries against at least five peaceful protesters, including one journalist covering the protests.**

284. The Special Rapporteur thanks the Government of Kuwait for its replies, dated 19 September 2014 and 8 October 2014, to the present communication.

285. The Rapporteur takes note of the information provided by the Government concerning the action taken by the police from 2 to 7 July 2014 and the State's human rights provisions in its Constitution.

286. The Rapporteur finds that the Government' reply does not sufficiently address the concerns raised in the initial communication, which means that the Government fails fully and expeditiously to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. The Rapporteur infers that the State similarly fails to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT). In its replies, the Government fails to provide sufficient information regarding the alleged ill-treatment of Mr. Abdulhakim Al Fadhli and the alleged illegal police activity surrounding the protests from 2 to 7 July 2014.

287. In the absence of sufficient information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication and that the Government of Kuwait by arbitrarily detaining the peaceful protestors in question and failing to investigate allegations of ill-treatment, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Kyrgyzstan

**(a)** JAL 22/05/2014 Case No. KGZ 2/2014 State Reply: None to date **Allegations concerning the physical attack against Ms. Dinara Turdumatova, a human rights lawyer, by an official at the Ministry of Internal Affairs.**

288. The Special Rapporteur regrets that the Government of Kyrgyzstan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

289. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Kyrgyzstan, by failing to protect the physical and psychological integrity of Ms. Dinara Turdumatova, has violated their right to be free from

torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. The Special Rapporteur urges the Government of the Kyrgysz Republic to conduct a fair and impartial investigation into the episode and to prosecute and punish the agents of the Ministry of Internal Affairs who may be found responsible for the assault, as well as those who ordered or covered it up.

(b) JUA 08/08/2014 Case No. KGZ 3/2014 State Reply: 03/09/2014 Allegations of arbitrary detention and imminent risk of extradition of Mr. Izblakhat Itakhunov, from Kyrgyzstan to Uzbekistan and the alleged risk of torture.

290. The Special Rapporteur regrets that the Government of Kyrgystan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

291. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Kyrgyzstan violates its obligation to prevent torture by failing to grant Mr. Itakhunov relief from deportation or extradition to Uzbekistan, where there are substantial grounds for believing he will be persecuted for his religious beliefs, detained without access to a fair trial and subjected to torture.

(c) JUA 10/09/2014 Case No. KGZ 4/2014 State Reply: None to date **Allegations of physical attacks against Mr. Makhamajan Abdujaparov, a human rights lawyer in south Kyrgyzstan, and threats against him and the non-governmental organization he works for.**

292. The Special Rapporteur regrets that the Government of Kyrgystan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

293. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Kyrgystan, by failing to prevent the threats to the physical and psychological integrity of Mr. Abdujaparov and by failing to investigate, prosecute and punish the responsible parties for the threats, has violated the right of Mr. Abduljaparov or to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1, 6 and 16 of the CAT.

## Libya

(a) UA 27/03/2014 Case No. LBY 1/2014 State Reply 02/06/2014 **Allegations of torture and ill-treatment of Mr. A during interrogation in the Al-Habdha Correction and Rehabilitation Institution in Tripoli, Libya.**

294. The Special Rapporteur thanks the Government of Libya for its reply, dated 02.06.2014, to the present communication.

295. He takes note of the information provided by the Government that the Ministry of Justice has investigated Mr. A's case, however, he is sceptical with regards to the methods

of investigation and documentation and particularly about its conditions to ensure promptness, independence, effectiveness and impartiality.

296. Overall, the Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

297. In the absence of sufficient and convincing information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Libya, by failing to protect Mr. A from torture and ill-treatment in prison and effectively investigate such accusations, has violated the right of Mr. A to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(b)** JAL 30/09/2014 Case No. LBY 3/2014 State Reply: None to date **Allegations of torture and other cruel, inhuman or degrading treatment or punishment of Mr. A, committed by Libyan law enforcement officials.**

298. The Special Rapporteur regrets that the Government of Libya has not replied to the communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 15/13, or to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

299. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Government of Libya, by failing to protect the physical and mental integrity of Mr. A, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Mexico

**(a)** JAL 24/03/2014 Case No. MEX 1/2014 State Reply: None to date **Alegaciones relativas a la tortura y posterior ejecución extrajudicial del Sr. Florencio Rojas Aguilar, en el Palacio Municipal de Cochoapa el Grande, en Guerrero, el día 5 de febrero de 2011.**

300. El Relator Especial lamenta que, hasta la fecha, el Gobierno de México no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

301. Ante la falta de información que indique lo contrario, el Relator concluye que el Gobierno de México, al no tomar medidas para proteger la integridad física del Sr. Florencio Rojas Aguilar, quien fue ingresado a golpes al Palacio Municipal y torturado por la policía preventiva, es responsable por los actos de tortura contra el Sr. Rojas Aguilar y ha violado el derecho de la víctima a no ser torturado o sometido a tratos crueles, inhumanos o

degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT.

**(b)** JUA 06/12/2013 Case No. MEX 12/2013 State Replies: 20/01/2014 and 10/02/2014 Alegaciones relativas a las ejecuciones extrajudiciales de los Sres. Arturo Hernández Cardona, Félix Rafael Bandera Román y Ángel Román Ramírez y los actos de tortura, malos tratos y desaparición sufridos por los Sres. Héctor Arroyo Delgado, Efraín Amates Luna, Gregorio Dante Cervantes y Nicolás Mendoza Villa, todos habitantes del municipio de Iguala, estado de Guerrero.

302. El Relator Especial agradece al Gobierno de Mexico por sus respuestas, de fechas 20 de enero y 10 de febrero del 2014, acusando recibo de la presente comunicación.

303. El Relator Especial da cuenta del esfuerzo del Gobierno en responder a las inquietudes presentadas en la comunicación inicial sobre las alegaciones relativas a las ejecuciones extrajudiciales de los Sres. Arturo Hernández Cardona, Félix Rafael Bandera Román y Ángel Román Ramírez y los actos de tortura, malos tratos y desaparición sufridos por los Sres. Héctor Arroyo Delgado, Efraín Amates Luna, Gregorio Dante Cervantes y Nicolás Mendoza Villa.

304. El Relator Especial toma nota de la información ofrecida por el Gobierno de México sobre la veracidad de las alegaciones presentadas; sobre las investigaciones llevadas a cabo por la Procuración a partir de las denuncias presentadas por los familiares de las víctimas antes su desaparición y la voluntad de dar cuenta del avance de las investigaciones y la cooperación con los familiares y miembros de organizaciones civiles involucradas en las protestas contra el cese de las mesas de negociación con el Gobierno Municipal; sobre las medidas de seguridad tomadas en favor de víctimas directas e indirectas así como apoyo médico, psicológico y jurídico, y aprecia el nivel de detalle brindado en ella. No obstante, el Relator Especial recuerda al Gobierno el principio 4 de los Principios Básicos sobre el Empleo de la Fuerza y de Armas de Fuego por los Funcionarios Encargados de Hacer Cumplir la Ley que establece que "[l]os funcionarios encargados de hacer cumplir la ley, en el desempeño de sus funciones, utilizarán en la medida de lo posible medios no violentos antes de recurrir al empleo de la fuerza y de armas de fuego." Además, el principio 9 de los Principios relativos a una eficaz prevención e investigación de las ejecuciones extralegales, arbitrarias o sumarias dice que los Gobiernos tienen la obligación de garantizar "una investigación exhaustiva, inmediata e imparcial de todos los casos en que haya sospecha de ejecuciones extralegales, arbitrarias o sumarias, incluidos aquéllos en los que las quejas de parientes u otros informes fiables hagan pensar que se produjo una muerte no debida a causas naturales en las circunstancias referidas (...)."

305. A pesar de la voluntad de cooperación con el Relator Especial y de que el Gobierno de México se encuentra cumpliendo con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT), el Relator Especial concluye que, al no tomar medidas para prevenir la violación de la integridad física y psicológica de las víctimas en un contexto en donde existían denuncias de hostigamiento, el Estado mexicano ha violado el derecho de los Sres. Arturo Hernández Cardona, Félix Rafael Bandera Román y Ángel Román Ramírez, Héctor Arroyo Delgado, Efraín Amates Luna, Gregorio Dante Cervantes y Nicolás Mendoza Villa a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT. En vista de los recurrentes episodios de alegaciones de torturas y tratos crueles, inhumanos o degradantes que se sucedieron en el municipio de Iguala, estado de Guerrero, el Relator Especial dará seguimiento a las investigaciones judiciales que se encuentran pendientes y estará cursando al Gobierno comunicaciones de seguimiento para conocer detalles

adicionales sobre el progreso de las investigaciones y reparaciones y espera poder continuar trabajando con el Gobierno para asegurar la justicia en esta causa.

**(c)** JUA 25/03/2014 Case No. MEX 2/2014 State Reply: 06/07/2014 Alegaciones relativas a las amenazas de muerte y agresiones contra integrantes de la organización Unión Cívica Democrática de Barrios Colonias y Comunidades (UCIDEBACC).

306. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 6 de julio del 2014, acusando recibo de la presente comunicación.

307. El Relator Especial da cuenta del esfuerzo del Gobierno en responder a las inquietudes presentadas en la comunicación inicial sobre las alegaciones relativas a las amenazas de muerte y agresiones contra integrantes de la organización Unión Cívica Democrática de Barrios Colonias y Comunidades (UCEDEBACC) y da cuenta de que a la fecha del envío de esta comunicación las investigaciones sobre algunas de las denuncias se encontraban en curso.

308. El Relator Especial toma nota de la información ofrecida por el Gobierno de México sobre las alegaciones manifestadas por las víctimas sobre las amenazas de muerte y agresiones constantes contra los integrantes de la mencionada organización social, y las detenciones y torturas a las que las víctimas aseguran fueron sometidas por parte de agentes del orden. Ante las alegaciones de las víctimas sobre su detención y las torturas sufridas en manos de agentes del Estado, el Gobierno de México brindó información sobre las detención librada contra Jacinto Baños al dar cuenta de la existencia de una denuncia ante la Procuraduría General de Justicia por su presunto involucramiento en actividades delictivas de secuestro y venta de drogas por lo que se realizó una averiguación previa. A su vez el Gobierno afirma que al entrar en la Colonia, la Policía se encontró con una persona maniatada y con la cara tapada en el mismo inmueble que se encontró al Sr. Baños, a quien la víctima identificó como su captor. Además, el Sr. Baños se encontraba en posesión de insignias de la policía, granadas y varios celulares. Antes estos hechos el 27 de agosto de 2013, el Ministerio Público consignó al Sr. Baños por su presunta responsabilidad en los delitos de portación de arma de fuego del uso exclusivo del ejército, armada y fuerza aérea, uso indebido de insignias y siglas de uso reservado para una corporación policial y privación ilegal de la libertad. El 31 de agosto el juez dictó auto de prisión contra el Sr. Baños. El 31 de marzo de 2014 el juez dictó auto de libertad por el delito de uso indebido de insignias de uso reservado para una corporación policial pero confirmó el auto de prisión por los demás delitos. El Sr. García, conforme la información brindada por el Gobierno de México, fue detenido a raíz de haber sido encontrado con granadas de mano, un chaleco táctico, un chaleco negro blindado, cinco teléfonos celulares. El 17 de agosto de 2013 se le imputaron los delitos de delincuencia organizada, secuestro, uso indebido de uniformes e insignias y violación a la ley federal de armas de fuego y explosivos. El 23 de agosto de 2013 el Juzgado dictó auto de prisión formal que fue confirmado por el Primer Tribunal Unitario el 16 de diciembre de 2013. En cuanto al Sr. Rojas, el Gobierno sólo pudo aportar que se encontraba recluido en el Centro de Internamiento de Etha, Oaxaca. Atento a ello, y teniendo en cuenta que pasaron casi cuatro meses desde la emisión de la comunicación hasta la contestación por el Gobierno, el Relator Especial considera que hay elementos suficientes para aceptar las alegaciones vertidas por la víctima. A pesar de haber brindado información sobre el devenir de las investigaciones penales de dos de los tres detenidos, el Gobierno de México no presenta ninguna respuesta a las alegaciones de torturas contra los Sres. Baños, García y Rojas.

309. En cuanto a las alegaciones sobre agresiones contra los integrantes de la (UCIDEBACC), el Relator Especial toma nota de los resguardos tomados por el Gobierno en la advertencia por parte de la Policía para que los manifestantes se retiren del lugar, de la lectura de derechos de los detenidos y de las revisiones médicas y peritajes a los detenidos. Sin embargo, el Relator Especial reitera la obligación del Gobierno de

implementar la prohibición absoluta y no derogable a todo acto de tortura y otros tratos o penas crueles, inhumanas o degradantes. Asimismo, hace referencia al Gobierno de México al principio 4 de los Principios Básicos sobre el Empleo de la Fuerza y de Armas de Fuego por los Funcionarios Encargados de Hacer Cumplir la Ley, el cual señala que tales funcionarios, "en el desempeño de sus funciones, utilizarán en la medida de lo posible medios no violentos antes de recurrir al empleo de la fuerza y de armas de fuego". Asimismo, hace referencia al principio 5 del mismo instrumento en el que se señala que dichos funcionarios deberán de actuar en proporción a la gravedad del delito y del riesgo que las circunstancias presenten. El Relator Especial destaca que el Gobierno de México no presenta ninguna información sobre las víctimas mujeres y niños que se encontraban en la manifestación

310. En lo que se refiere a las alegaciones de la Sra. Rivera sobre las amenazas de muerte y hostigamiento recibidos contra ella, el Gobierno de México da cuenta de las averiguaciones previas que se encuentran en curso ante las denuncias presentadas por la víctima y de las diversas medidas de seguridad y vigilancia ofrecidas a ella.

311. Ante la falta de información suficiente que indique lo contrario, el Relator concluye que el Gobierno de México, al no tomar medidas para prevenir la tortura de los Sres. García, Baños y Rojas, ha violado sus derechos a no ser torturados o sometidos a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT.

312. En cuanto al accionar del Gobierno en la manifestación, el Relator Especial concluye que el Gobierno de México al no tomar medidas para proteger la integridad física de los manifestantes, ha violado el derecho los manifestantes a no ser sometidos a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT.

313. En lo que se refiere al caso de las amenazas contra la Sra. Rivera, el Relator Especial concluye que el Gobierno actuó de forma diligente en la investigación y establecimiento de medidas de seguridad. No obstante, el Relator Especial, atento a la existencia de un patrón creciente de violencia e inseguridad para los defensores de derechos humanos, dará seguimiento a las investigaciones judiciales que se encuentran pendientes y estará cursando al Gobierno comunicaciones de seguimiento para conocer detalles adicionales sobre el progreso de las investigaciones y reparaciones y espera poder continuar trabajando con el Gobierno para asegurar la justicia en esta causa.

**(d)** JUA 22/04/2014 Case No. MEX 3/2014 State Reply: None to date **Alegaciones relativas a la presunta detención arbitraria y tortura del Sr. Damián Gallardo Martínez.**

314. El Relator Especial lamenta que, hasta la fecha, el Gobierno de México no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

315. Ante la falta de información que indique lo contrario, el Relator concluye que hay sustancia en las alegaciones presentadas en la comunicación inicial, reiteradas arriba, y por lo tanto, que el Gobierno de México, no resguardó la integridad física y psicológica del Sr. Gallardo Martínez, quien fue torturado, golpeado de forma repetida, sujeto a amenazas contra su familia; a quien se le negaron alimentos y acceso a un baño; y quien fuera obligado a firmar una confesión bajo tortura. Por ello, el Gobierno ha violado el derecho del Sr. Gallardo a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT. El Relator Especial manifiesta su preocupación por la falta de utilización por parte

del experto que realizó el examen médico del Protocolo de Estambul (Manual para la investigación y documentación eficaces de la tortura y otros tratos o penas crueles, inhumanos o degradantes) y la omisión en el informe de la cronología así como la naturaleza del instrumento u objeto que habría producido las lesiones. Atento a las reiteradas denuncias ocurridas en el último tiempo en México contra defensores de los derechos humanos y particularmente en el caso del Sr. Gallardo Martínez, sujeto de comunicaciones anteriores con fecha de16 de enero de 2007 (MEX 1/2007), 8 de noviembre de 2006 (MEX 38/2006), 30 de octubre de 2006 (MEX 37/2006), y 29 de agosto de 2006 (MEX 29/2006), el Relator Especial solicita al Gobierno de México información sobre la los procesos judiciales que se hayan iniciado en contra de los funcionarios públicos responsables por este accionar.

**(e)** JUA 20/05/2014 Case No. MEX 7/2014 State Reply: None to date **Alegaciones relativas a la detención y tortura de la Sra. Alma Angélica Barraza Gómez, así como actos de criminalización, hostigamiento y estigmatización de sus actividades de abogada en defensa de los derechos humanos.**

316. El Relator Especial lamenta que, hasta la fecha, el Gobierno de México no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

317. Ante la falta de información que indique lo contrario, el Relator concluye que hay sustancia en las alegaciones presentadas en la comunicación inicial, reiteradas arriba, y por lo tanto, que el Gobierno de México no ha resguardado la integridad física y psicológica y la seguridad personal de la Sra. Barraza Gómez, quien ha sido víctima de golpizas por parte de la Policía Ministerial, al ser detenida en una prisión sin orden de detención en la que se le impidió acceder al baño, se le negó atención médica y acceso a un abogado. Ante la falta de avance significativo sobre las denuncias realizadas por la víctima sobre los actos de tortura y las deficientes medidas de protección establecidas por el Gobierno, este último ha violado el derecho de la Sra. Barraza Gómez a no ser torturada ni sometida a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT. El Relator Especial, atento a la existencia de un patrón creciente de violencia e inseguridad para los defensores de derechos humanos, dará seguimiento a las investigaciones judiciales que se encuentran pendientes y estará cursando al Gobierno comunicaciones de seguimiento para conocer detalles adicionales sobre el progreso de las investigaciones y reparaciones y espera poder continuar trabajando con el Gobierno para asegurar la justicia en esta causa.

**(f)** JAL 10/06/2014 Case No. MEX 9/2014 State Reply: 05/09/2014 **Alegaciones de actos de intimidación y represalias contra el Sr. Raymundo Ramos Vázquez.**

318. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 5 de septiembre del 2014, acusando recibo de la presente comunicación.

319. El Relator Especial toma nota de la información ofrecida por el Gobierno sobre las alegaciones de intimidación y represalias contra el Sr. Ramos Vázquez por su denuncia ante el Relator Especial contra la Tortura en su visita a México sobre los casos de abuso cometidos por las fuerzas armadas.

320. El Relator Especial reconoce el esfuerzo realizado por el Gobierno de México en presentar la información pertinente sobre la existencia de quejas realizada por el Sr. Ramos Vázquez o en su favor en vista de la intrusión de efectivos de la Marina en las oficinas del Comité de Derechos Humanos de Nuevo Laredo, y los trámites que siguieron esas

denuncias, así como las diversas medidas de protección adoptadas en favor del Sr. Ramos Vázquez. Sin embargo, considerando el contexto de creciente violencia e inseguridad para los defensores de los derechos humanos en México, el Relator considera que, en su respuesta, el Gobierno no respondió adecuadamente a las inquietudes presentadas en la comunicación inicial, al omitir responder a la pregunta sobre las medidas adoptadas para garantizar que los y las defensoras de derechos humanos y todos los que trabajan por la promoción y, defensa de las libertades fundamentales puedan llevar a cabo su labor sin miedo a sufrir actos de intimidación, acoso o represalias de ningún tipo, lo que le lleva a inferir que el Gobierno no ha cooperado plena y rápidamente con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13.

321. Asimismo, el Relator Especial sostiene que el Gobierno de México, aun teniendo información sobre la existencia de medidas de protección a favor del Sr. Ramos Vázquez por denuncias contra su integridad física y psicológica, no tomó medidas suficientes para prevenir la intrusión de la Marina en las oficinas del organismo de la sociedad civil dedicado a la defensa de los derechos humanos.

322. Ante la falta de información suficiente que indique lo contrario, el Relator concluye que el Gobierno de México, al no tomar medidas para prevenir la violación de la integridad psicológica del Sr. Ramos Vázquez ha violado el derecho de este a no ser sometido a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT. Atento al contexto actual de aumento de intimidación y violencia en contra de los Defensores de Derechos Humanos en México, el Relator Especial solicita al Gobierno de México que tome las medidas pertinentes para asegurar la protección de la integridad física y psicológica de este grupo y lo mantenga informado de las medidas que se adopten para proteger a sus miembros.

(g) JUA 17/07/2014 Case No. MEX 10/2014 **Alegaciones en relación con la** detención, presuntos actos de tortura, intimidación y acoso de dos defensores de derechos humanos trabajando en el contexto de diversos mega-proyectos en México que afectarían a comunidades campesinas e indígenas en los Estados de Chiapas y Guerrero.

323. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 5 de noviembre del 2014, acusando recibo de la presente comunicación.

324. El Relator Especial toma nota de la información ofrecida por el Gobierno de México sobre las alegaciones de detención, actos de tortura, intimidación y acoso a dos defensores de derechos humanos que trabajan con comunidades campesinas e indígenas de Chiapas y Guerrero que se oponen al desarrollo de un mega-proyecto que las afectaría.

325. El Relator considera que, en su respuesta, el Gobierno no respondió adecuadamente a las inquietudes presentadas en la comunicación inicial, ni constituyen por ahora cooperación plena y rápida con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Ante la pregunta realizada por el Relator Especial sobre si las detenciones de los Sres. Ruíz Mendoza y Suástegui había sido llevada a cabo respetando sus derechos humanos, el Gobierno de México respondió que respecto del Sr. Ruíz Mendoza no se constata un acta de aprehensión desconociéndose los motivos de su detención, y respecto del Sr. Suástegui afirma que existe una orden de detención por lesiones agravadas, robo calificado, ataque a las vías de comunicación y a los medios de transporte en agravio a la sociedad. En el caso del Sr. Ruíz Mendoza, el Relator Especial le recuerda al Gobierno de México que conforme el art. 9.1 del Pacto internacional de Derechos Civiles y Políticos nadie puede ser arrestado en forma arbitraria y es necesaria la existencia de una orden de aprehensión. En cuanto a las preguntas realizadas por el Relator Especial sobre la existencia de quejas presentadas a favor de las víctimas o por ellas, el Gobierno de México no presenta ninguna respuesta y tampoco lo hace sobre las medidas de protección tomadas a favor de los defensores de derechos humanos para que puedan llevar

a cabo su labor sin miedo a sufrir actos de intimidación, acoso u hostigamiento de ningún tipo. En el caso del Sr. Ruiz Mendoza y respecto a las alegaciones de tortura y la imposibilidad de comunicarse, considerando la falta de contestación a ello por parte del Gobierno de México, el Relator Especial considera que hay elementos para aceptar las alegaciones vertidas por la víctima. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

326. En cuanto al Sr. Suástegui, el Gobierno de México no presenta ninguna información sobre las investigaciones judiciales sobre las alegaciones de tortura, intimidación y acoso, evidenciando que el Gobierno de México no se encuentra cumpliendo con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y tratos crueles, inhumanos o degradantes como establece, inter alia, la Convención contra la Tortura (CAT).

327. Ante la falta de información suficiente que indique lo contrario, el Relator concluye que el Gobierno de México, al no tomar medidas para prevenir la violación a la integridad física y psicológica de los Sres. Ruiz Mendoza y Suástegui, y al no investigar, juzgar y sancionar a los responsables de los actos de tortura y tratos crueles, inhumanos y degradantes ha violado sus derechos a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT. Atento al contexto actual de aumento de intimidación y violencia en contra de los Defensores de Derechos Humanos en México, el Relator Especial solicita al Gobierno de México que tome las medidas pertinentes para asegurar la protección de la integridad física y psicológica de este grupo y lo mantenga informado de las medidas que se adopten para protegerlos.

**(h)** JAL 07/08/2014 Case No. MEX 12/2014 State Reply: 05/11/2014 **Alegaciones de actos de tortura y malos tratos sobre la Señora Claudia Medina Tamariz cometidos por agentes de la Secretaría de Marina, en el Estado de Veracruz.**

328. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 5 de noviembre del 2014, acusando recibo de la presente comunicación.

329. El Relator Especial toma nota de la información ofrecida por el Gobierno de México sobre las alegaciones de actos de tortura y malos tratos sobre la Sra. Claudia Medina Tamariz cometidos por agentes de la Secretaría de Marina en el Estado de Veracruz.

330. El Relator Especial toma nota de la información ofrecida por el Gobierno de México sobre las serias alegaciones de tortura y malos tratos vertidas por la Sra. Medina Tamariz cuando se encontraba a disposición de agentes de la Secretaría de Marina con el objetivo de extraerle una confesión sobre su supuesta participación en un grupo delictivo, y sobre las investigaciones sobre las alegaciones de tortura, violencia sexual y malos tratos que se encuentra llevando a cabo la Procuraduría General de Justicia Militar. Considerando la gravedad de los hechos denunciados –torturas, violencia sexual y tratos crueles, inhumanos o degradantes- el Relator Especial, si bien reconoce que el Gobierno de México se encuentra investigando las alegaciones, desea resaltar la importancia de que ellas sean conducidas de modo independiente e imparcial de forma tal que el Gobierno cumpla con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y tratos crueles, inhumanos o degradantes como establece, inter alia, la Convención contra la Tortura (CAT).

331. El Relator Especial quisiera resaltar el rol destacado que tienen los médicos forenses en las investigaciones de torturas, tratos crueles, inhumanos o degradantes, quienes resultan esenciales para suplir la falta de pruebas objetivas de las que suelen carecer los sobrevivientes de la tortura (Informe provisional del Relator Especial sobre la tortura y

otros tratos o penas crueles, inhumanos o degradantes Res. AG A/69/387, 23 de septiembre de 2014). Los artículos 12 y 13 de la Convención contra la Tortura requieren expresamente que se inicien investigaciones con prontitud e inmediatamente después de recibir las denuncias de tortura.

332. Atento a las discrepancias entre el relato de la Sra. Claudia Medina Tamaríz y la respuesta del Gobierno de México el Relator Especial solicita al Gobierno que se lo mantenga informado sobre la evolución de la causa judicial que investiga las alegaciones de tortura, y solicita una copia de los certificados médicos realizados por los diferentes médicos forenses y prueba de la fecha de detención de la Sra. Medina Tamariz y fecha de su presentación ante un juez.

(i) JAL 15/08/2014 Case No. MEX 13/2014 State Reply: 15/10/2014 **Alegaciones de tortura y asesinato del Sr. Jethro Ramsés Sánchez Santana, presuntamente cometidos por personal militar.**

333. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 15 de octubre del 2014, acusando recibo de la presente comunicación.

334. El Relator Especial da cuenta del esfuerzo del Gobierno en responder a las inquietudes presentadas en la comunicación inicial sobre las alegaciones de tortura y asesinato del Sr. Sánchez Santana presuntamente cometidos por personal militar.

335. El Relator Especial toma nota de la información ofrecida por el Gobierno de México sobre la veracidad de las alegaciones presentadas; sobre la existencia de una queja ante la Comisión Nacional de Derechos Humanos realizadas por sus familiares; sobre las investigaciones que se encuentran en curso para determinar la responsabilidad de agentes militares y sobre si las víctimas recibieron alguna compensación o indemnización. No obstante, el Relator Especial desea hacer referencia a los artículos 3 y 6 de la Declaración Universal de Derechos Humanos y el Pacto Internacional de Derechos Civiles y Políticos respectivamente, que garantizan a todo individuo el derecho a la vida y a la seguridad de su persona y disponen que este derecho sea protegido por la ley y que nadie sea arbitrariamente privado de su vida. Es obligación del Estado establecer la infraestructura institucional necesaria para prevenir posibles violaciones a estos derechos. Asimismo, el Relator Especial reconoce el cumplimiento del Gobierno de México con su deber de investigar los asesinatos y alegaciones de tortura como establecen los artículos 7 y 12 de la Convención contra la Tortura (CAT) y el párrafo 7 (b) de la Resolución 16/23 del Consejo de Derechos Humanos.

336. Sin embargo, el Relator Especial insiste en conocer el resultado de las investigaciones sobre el asesinato del Sr. Sánchez Santana para poder determinar si el Gobierno de México ha actuado con la debida diligencia para responder a los hechos graves que prima facie constituyen violación a los derechos del Sr. Sánchez Santana a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT.

(j) AL 16/09/2014 Case No. MEX 16/2014 State Reply: 06/02/2015 **Alegaciones de actos de tortura sobre los Sres. Rodolfo Magaña Platas, Lauro González Cruz, Javier Borges Ávila, Jesús Octavio Vázquez Vargas e Idelfonso Juárez González.**

337. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 6 de febrero del 2014, acusando recibo de la presente comunicación.

338. El Relator Especial toma nota de la información ofrecida por el Gobierno sobre la falsedad en las alegaciones sobre los hechos que llevaron a la detención de los Sres. Rodolfo Magaña Platas, Lauro González Cruz, Javier Borges Ávila, Jesús Octavio Vázquez Vargas e Idelfonso Juárez González, miembros de la Fuerza Civil de Monterrey; sobre la falsedad en las alegaciones de torturas y malos tratos; sobre las quejas realizadas por las

víctimas ante la Comisión Estatal de Derecho Humanos y ante la Procuración General de Justicia (PGJ) y las medidas de protección tomadas a favor de ellos, y sobre las investigaciones judiciales que se encuentran pendientes a raíz de estas denuncias.

339. El Relator Especial manifiesta que las víctimas alegan haber sido detenidas sin orden judicial habiendo permanecido desde ese entonces en las instalaciones de la Agencia Estatal de Investigaciones vendados, esposados y con los pies amarrados teniendo que dormir en una escalera habiendo sido golpeados en varias partes del cuerpo, sufrido descargas eléctricas y maniobras para producir asfixia. Todo ello con el objeto de lograr que los 5 detenidos firmaran declaraciones de autoinculpación por el homicidio ocurrido el 25 de junio de 2013. Ante ello, el Gobierno de México afirma que en ningún momento sus agentes recurrieron a mecanismos de tortura y manifiestan que las investigaciones por estos actos llevadas por la PGJ no arrojan conclusiones para afirmar la existencia de tortura. El Gobierno da cuenta de la realización de un examen psicológico realizado a las víctimas pero no relata las conclusiones. Considerando ello, el Relator Especial solicita al Gobierno de México los informes sobre las evaluaciones psicológicas. Ante la falta de mención respecto de las evaluaciones físicas a las víctimas, el Relator Especial quisiera resaltar el rol destacado que tienen los médicos forenses en las investigaciones de torturas, tratos crueles, inhumanos o degradantes, quienes resultan esenciales para suplir la falta de pruebas objetivas de las que suelen carecer los sobrevivientes de la tortura (Informe provisional del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes Res. AG A/69/387, 23 de septiembre de 2014). Los artículos 12 y 13 de la Convención contra la Tortura requieren expresamente que se inicien investigaciones con prontitud e inmediatamente después de recibir las denuncias de tortura.

340. Sin embargo, el Relator Especial considera que ante la falta de documentación sobre evaluaciones físicas a las víctimas, el Gobierno de México no ha actuado con la debida diligencia para investigar y responder a los hechos graves que prima facie constituyen violación a los derechos de los Sres. Rodolfo Magaña Platas, Lauro González Cruz, Javier Borges Ávila, Jesús Octavio Vázquez Vargas e Idelfonso Juárez González a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1, 6 y 16 del CAT.

**(k)** AL 16/09/2014 Case No. MEX 17/2014 State Reply: 25/11/2014 **Alegaciones de actos de tortura sobre el Señor Adrián Vázquez Lagunés, cometidos por personal de la Policía** Estatal Preventiva del Estado de Baja California.

341. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 27 de noviembre del 2014, acusando recibo de la presente comunicación.

342. El Relator Especial da cuenta del esfuerzo del Gobierno en responder a las inquietudes presentadas en la comunicación inicial sobre las alegaciones de actos de tortura sobre el Sr. Sánchez Santana presuntamente cometidos por el personal de la Policía del Estado de Baja California.

343. El Relator Especial toma nota de la información ofrecida por el Gobierno de México sobre la veracidad de las alegaciones presentadas; sobre la denuncia presentada por su esposa ante la Procuración General de Justicia de Baja California y sobre las investigaciones y diligencias judiciales que se encuentran en curso para determinar la responsabilidad de los agentes de la Policía Preventiva. A pesar de esto, el Relator Especial reafirma la obligación del Gobierno de México de tomar las medidas legislativas, administrativas, judiciales o de otra índole para impedir que los particulares y los agentes estatales, como en este caso, cometan actos de tortura o tratos crueles, inhumanos o degradantes.

344. Asimismo, el Relator Especial reconoce el cumplimiento del Gobierno de México con su deber de investigar los asesinatos y alegaciones de tortura como establecen los

artículos 7 y 12 de la Convención contra la Tortura (CAT) y el párrafo 7 (b) de la Resolución 16/23 del Consejo de Derechos Humanos.

345. Sin embargo, el Relator Especial insiste en conocer el resultado de las investigaciones sobre el asesinato del Sr. Vázquez Lagunés para poder determinar si el Gobierno de México ha actuado con la debida diligencia para responder a los hechos graves que prima facie constituyen violación a los derechos del Sr. Vázquez Launés a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT. El Relator Especial insiste en una pronta respuesta dado el gran número de denuncias sobre víctimas que alegan haber sido torturadas para extraer confesiones sobre su involucramiento en actos del crimen organizado que se han reportado en la zona de Baja California

(l) AL 18/09/2014 Case No. MEX 18/2014 State Reply: 26/11/2014 **Alegaciones de actos de tortura sobre 25 Agentes de la Secretaría de Seguridad Pública Municipal de la Ciudad de Tijuana que se alega fueron cometidos por personal de Infantería del Ejército.**

346. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 21 de noviembre del 2014, a la presente comunicación.

347. El Relator Especial toma nota de la información ofrecida por el Gobierno sobre las alegaciones de tortura sobre 25 agentes de la Secretaría de Seguridad Pública de la Ciudad de Tijuana, Baja California presuntamente cometidas por el personal de Infantería del Ejército.

348. El Relator considera que, en su respuesta, el Gobierno no respondió adecuadamente a las inquietudes expuestas en la comunicación inicial, ni constituye ESA respuesta cooperación plena y rápida con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Ante la pregunta formulada por el Relator Especial sobre los antecedentes del caso para poder determinar la veracidad de las alegaciones, el Gobierno de México no esclarece los hechos que se les imputaron a los 25 agentes ni relata su versión sobre los hechos de tortura. El Relator Especial pone de resalto la gravedad de las alegaciones presentadas por las víctimas –torturas físicas y psicológicas durante varios días, permanecer amarrados de manos y pies noches enteras, sufrir golpes en el cuerpo y descargas eléctricas, asfixia, ser privados de alimentos y amenazados de muerte en contra de ellos y sus familias- y reafirma la obligación del Gobierno de México de tomar las medidas legislativas, administrativas, judiciales o de otra índole para impedir que los particulares y los agentes estatales como en este caso cometan actos de tortura o tratos crueles, inhumanos o degradantes. Durante su visita a México en abril y mayo de 2014, el Relator entrevistó personalmente a varias de las víctimas en este caso y se hizo una impresión directo sobre la credibilidad de sus testimonios.

349. Asimismo, el Relator Especial reconoce el cumplimiento del Gobierno de México con su deber de investigar los asesinatos y alegaciones de tortura como establecen los artículos 7 y 12 de la Convención contra la Tortura (CAT) y el párrafo 7 (b) de la Resolución 16/23 del Consejo de Derechos Humanos.

350. Sin embargo, el Relator Especial insiste en conocer el resultado de las investigaciones sobre las torturas a los 25 agentes de la Secretaría de Seguridad Pública Municipal de la Ciudad de Tijuana, Baja California para poder determinar si el Gobierno de México ha actuado con la debida diligencia para responder a los hechos graves que prima facie constituyen violación a los derechos de las víctimas a no ser torturados ni sometidos a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT. El Relator Especial insiste en una pronta respuesta dado el gran número de denuncias sobre víctimas que alegan haber

sido torturadas para extraer confesiones sobre su involucramiento en actos del crimen organizado que se han reportado en la zona de Baja California

**(m)** AL 22/09/2014 Case No. MEX 19/2014 State Reply: 09/02/2015 . **Alegaciones de actos de tortura sobre los Sres. Alejandro Ávila Arteaga y Juan Carlos Luna Ramírez.**

351. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 9 de febrero del 2014, acusando recibo de la presente comunicación.

352. El Relator Especial toma nota de la información ofrecida por el Gobierno sobre la falsedad de los hechos alegados por las víctimas; sobre las quejas presentadas por los Sres. Alejandro Ávila Arteaga y Juan Carlos Luna Ramírez y sobre las investigaciones judiciales ante las alegaciones de tortura.

353. Ante las discrepancias entre las graves alegaciones de las víctimas –repetidas golpizas para que confiesen participación en actividades delictivas, toques eléctricos en el cuerpo, ahogamientos-, y los certificados de evaluación física presentados en el expediente abierto ante la Comisión Nacional de Derechos Humanos (CNDH) – "lesiones traumáticas al momento de ser certificado, pero que [é]stas por su naturaleza eran de las que no ponían en peligro la vida y tardaban en sanar menos de quince días" -mencionados en la respuesta del Gobierno de México, el Relator Especial desea poner de resalto la importancia que reviste el certificado del médico forense en casos de tortura o tratos crueles, inhumanos o degradantes. Considerando que el contexto donde estos actos suelen presentarse es en privado impidiendo que testigos den cuenta de los hechos, los certificados médicos y psicológicos resultan esenciales para suplir la falta de pruebas objetivas de las que suelen carecer los sobrevivientes de la tortura (Informe provisional del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes Res. AG A/69/387, 23 de septiembre de 2014). Los artículos 12 y 13 de la Convención contra la Tortura requieren expresamente que se inicien investigaciones con prontitud e inmediatamente después de recibir las denuncias de tortura. Atento a esto, el Relator Especial solicita al Gobierno de México copias de los certificados de evaluación física realizados por los médicos forenses en le expediente tramitado ante la CNDH.

354. El Relator Especial reconoce el cumplimiento del Gobierno de México con su deber de investigar las alegaciones de tortura como establecen los artículos 7 y 12 de la Convención contra la Tortura (CAT) y el párrafo 7 (b) de la Resolución 16/23 del Consejo de Derechos Humanos.

355. Sin embargo, el Relator Especial insiste en conocer el resultado de las investigaciones sobre las torturas a los Sres. Alejandro Ávila Arteaga y Juan Carlos Luna Ramírez para poder determinar si el Gobierno de México ha actuado con la debida diligencia para responder a los hechos graves que prima facie constituyen violación a los derechos de las víctimas a no ser torturados o sometidos a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT.

**(n)** JUA 03/10/2014 Case No. MEX 21/2014 State Reply: 11/11/2014 **Alegaciones de casos de ejecución extrajudicial y desaparición forzada masiva de estudiantes de la Escuela Normal Rural "Raúl Isidro Burgos" en Iguala, Estado De Guerrero.**

356. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 10 de noviembre del 2014, acusando recibo de la presente comunicación.

357. El Relator Especial da cuenta del esfuerzo del Gobierno en responder a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre las alegaciones de casos de ejecución extrajudicial y desaparición forzada masiva de estudiantes de la Escuela Rural "Raúl Isidro Burgos" en Iguala, Estado de Guerrero.

358. El Relator Especial toma nota de la información ofrecida por el Gobierno de México sobre la veracidad de las alegaciones presentadas por las víctimas; sobre las quejas presentadas por los familiares y amigos de las víctimas; sobre las investigaciones para determinar el destino y paradero de los 43 estudiantes; sobre las investigaciones llevadas a cabo sobre los asesinatos y desaparición forzada y sobre la identificación de quienes realizaron los hechos y sanciones impuestas contra ellos y sobre las medidas de protección a favor de los familiares de las víctimas y los sobrevivientes. Sin embargo, el Relator Especial desea hacer referencia a los artículos 3 y 6 de la Declaración Universal de Derechos Humanos y el Pacto internacional de Derechos Civiles y Políticos, respectivamente, que garantizan a todo individuo el derecho a la vida y a la seguridad de su persona y disponen que este derecho sea protegido por la ley y que nadie sea arbitrariamente privado de su vida. Es obligación del Estado establecer la infraestructura institucional necesaria para prevenir posibles violaciones a estos derechos. El Relator Especial resalta que en el caso en análisis fueron los mismos agentes de la Policía Municipal los que entregaron a los 43 estudiantes a los integrantes del cartel Guerreros Unidos quienes afirmaron haberlos ejecutado, todo ello en connivencia con el Presidente Municipal de Iguala. Sumado a esto, el Relator Especial desea resaltar que la obligación de establecer la infraestructura necesaria para prevenir violaciones al derecho a la vida y seguridad personales, se presenta de manera más acuciante para el Gobierno de México teniendo en cuenta que durante hechos similares a los actuales ocurridos en 2011, tres estudiantes perdieron la vida en ejecuciones extrajudiciales que al día de hoy no han tenido resolución quedando los hechos impunes.

359. La Convención contra la Tortura establece la obligación de los Estados parte de tomar medidas legislativas, administrativas, judiciales o de otra índole eficaces para impedir todo acto por el cual se inflija intencionadamente a una persona dolores o sufrimientos graves, ya sean físicos o mentales, con el fin de obtener de ella o de un tercero información o una confesión, de castigarla por un acto que haya cometido, o se sospeche que ha cometido, o de intimidar o coaccionar a esa persona o a otras, o por cualquier razón basada en cualquier tipo de discriminación, cuando dichos dolores o sufrimientos sean infligidos por un funcionario público u otra persona en el ejercicio de funciones públicas, a instigación suya, o con su consentimiento o aquiescencia". Los testimonios relevados en las investigaciones ante las denuncias de desaparición de los 43 estudiantes y el cadáver encontrado con signos de tortura dan cuenta de que los demás estudiantes podrían haber sufrido una suerte similar.

360. El Relator Especial reconoce el cumplimiento del Gobierno de México con su deber de investigar los asesinatos y alegaciones de tortura como establecen los artículos 7 y 12 de la Convención contra la Tortura (CAT) y el párrafo 7 (b) de la Resolución 16/23 del Consejo de Derechos Humanos. Sin embargo, el Relator Especial insiste en conocer el resultado de las investigaciones sobre la desaparición de los 43 estudiantes para poder determinar si el Gobierno de México ha actuado con la debida diligencia para responder a los hechos graves que prima facie constituyen violación a sus derechos a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT.

361. Atento al escenario planteado y el contexto actual en el que se encuentra México en donde es recurrente la desaparición de personas y las matanzas a manos de grupos del crimen organizado, en algunos casos en connivencia con autoridades, el Relator Especial concluye que el Gobierno de México, al no tomar medidas para prevenir la violación del derecho a la vida y la seguridad personales y prevenir la violación de la integridad física y psicológica de los 57 estudiantes, ha violado sus derechos a no ser torturados ni sometidos a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT.

**(o)** AL 27/11/2014 Case No. MEX 23/2014 State Reply: None to date **Alegaciones de actos de tortura cometidos por personal de la Secretaría para la Defensa Nacional (SEDENA) sobre los Sres. Ramiro Ramírez Martínez, Orlando Santaolaya Villareal, Rodrigo Ramírez Martínez y Ramiro López Vásquez.**

362. El Relator Especial lamenta que, hasta la fecha, el Gobierno de México no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

363. Ante la falta de información que indique lo contrario, el Relator concluye que el Gobierno de México, al no proteger la integridad física y psicológica de los Sres. Ramiro Ramírez Martínez, Orlando Santaolaya Villareal, Rodrigo Ramírez Martínez y Ramiro López Vásquez es responsable por sus sufrimientos físicos y mentales y ha violado sus derechos a no ser torturados o sometidos a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT.

**(p)** AL 27/11/2014 Case No. MEX 24/2014 State Reply: 03/02/2015 **Alegaciones de actos de tortura sobre los Sres. Fredy Sánchez Sánchez, José Manuel Cundafé Córdova, Luis Manuel Leyva Aguilera, Jesús Alma Cundafé, Ignacio Reyes García, Daniel Olán Ramos, Reynaldo Jiménez y Mateo Jacinto.**

364. El Relator Especial acusa recibo de la nota de respuesta del Gobierno de México de fecha "", recibida luego de expirado el plazo de sesenta días para contestar. Al mismo tiempo, agradece al Gobierno de México la información allí contenida sobre los trámites emprendidos a raíz de la muerte en custodia del Sr. Mateo Jacinto. Toma nota, a su vez, de que se encuentran pendientes otras investigaciones y también negociaciones con las presuntas víctimas sobre eventuales reparaciones.

365. El Relator solicita al Gobierno de México que suministre más detalles sobre las condiciones en que se realizaron los exámenes médicos al Sr. Jacinto y médicos y psicológicos a los demás detenidos, en especial para garantizar que la investigación respectiva esté rodeada de garantías de eficiencia, prontitud, independencia e imparcialidad.

366. El Relator se pronunciará en definitiva sobre este caso luego de recibir las informaciones requeridas.

**(q)** AL 27/11/2014 Case No. MEX 25/2014 State Reply: None to date **Alegaciones de actos de tortura sobre el Señor Luis Ángel Zazueta Cornejo cometido por personal de la Policía Estatal Preventiva del Estado de Baja California.**

367. El Relator Especial lamenta que, hasta la fecha, el Gobierno de México no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

368. Ante la falta de información que indique lo contrario, el Relator concluye que el Gobierno de México, al no proteger la integridad física y psicológica del Sr. Luis Ángel Zazueta Cornejo es responsable por sus sufrimientos físicos y mentales y ha violado sus derechos a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT.

## Morocco

**(a)** JUA 27/03/2014 Case No. MAR 1/2014 State Reply: 22/04/2014 **Allégations concernant la détention arbitraire de M. Mohammed Rashid Eid Al Hashimi**

369. Le Rapporteur spécial remercie le gouvernement du Maroc pour sa réponse, datée du 22 avril 2014, à la présente communication. Le Rapporteur a pris connaissance de l'explication exhaustive du gouvernement en réponse aux préoccupations, obligations légales et questions soulevées dans la communication initiale. Il prend note de l'information fournie par le gouvernement selon laquelle la justice marocaine, suivant les procédures légales, s'est déclarée favorable à l'extradition de M. Al Hashimi vers le Sultanat d'Oman. Cependant, le gouvernent n'a pas exécuté le décret d'extradition suite à la demande du Comité contre la torture de l'ONU aux autorités marocains.

370. Suite à la réponse des autorités marocaines, le Rapporteur a pris note des informations données par les autorités marocaines qui disent se conformer aux dispositions de la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT), en prenant soin ne pas exécuter le décret d'extradition pris contre M. Al Hashimi en vue de protéger ses droits comme l'a demandé le Comité contre la torture qui exige la protection des droits de M. Al Hashimi de ne pas être soumis à la torture ou autres peines ou traitements cruels, inhumains ou dégradants, conformément aux articles 1 et 16 de la CCT.

**(b)** JUA 09/04/2014 Case No. MAR 2/2014 State Reply: 30/04/2014 **Allègations concernant l'arrestation arbitraire et la détention de M. A, allégations relatives à des tortures et mauvais traitement en détention et allégations relatives à l'absence de soins médicaux adéquats.**

371. Le Rapporteur spécial remercie le gouvernement du Maroc pour sa réponse, datée du 30 avril 2014, à la présente communication.

372. Le Rapporteur a pris connaissance de l'explication exhaustive du gouvernement en réponse aux préoccupations, obligations légales et questions soulevées dans la communication initiale. Il prend note de l'information fournie par le gouvernement selon laquelle l'arrestation de M. A s'est déroulée conformément aux règles et lois du pays qui se conforment aux standards internationaux. En outre, le gouvernement marocain a bien décrit les soins médicaux dont disposent les détenus et les circonstances des grèves de la faim de M. A.

373. Suite à la réponse des autorités marocaines, le Rapporteur est enclin à conclure que le gouvernement du Maroc n'a pas violé les dispositions de la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT) en ce qui concerne les conditions dans les prisons, le traitement médical, et les visites familiales. Suivant les faits décrits par le gouvernement concernant la poursuite et la conviction de M. A, les autorités ont respecté les procédures marocaines. Sur ce point, Le Rapporteur n'est respectueusement pas d'accord avec la déclaration du gouvernement selon laquelle ces procédures seraient conformes aux standards internationaux, au moins en ce qui concerne les condamnations basées sur des confessions. Même si la confession est mise en balance avec d'autres preuves, il est de la responsabilité des cours et des procureurs de déterminer si les confessions ont été faites volontairement ou sous la contrainte. Le procureur a la charge d'établir la validité de la confession. Dans ce cas, il semble que la confession ait été donnée à une autorité policière et ait été incluse dans le dossier de l'affaire. La responsabilité de la cour est de vérifier que les confessions ne soient admissibles que si elles ont été données devant une cour et après les conseils d'un conseil indépendant choisi par le défendant. Les soins médicaux disponibles pour les détenus comme décrits par le gouvernement suffisent à protéger les droits de M. A de ne pas être soumis à la torture et

autres peines ou traitements cruels, inhumains ou dégradants, comme prévu dans les articles 1 et 16 de la CCT. D'autre part, le Rapporteur est persuadé que la procédure suivie contre M. A ne présente pas les garanties suffisantes contre l'auto-incrimination et ne se conforme pas à l'obligation, selon l'article 15 de la CCT, d'exclure toute preuve obtenue sous la torture. En ce qui concerne son obligation, en vertu du droit international coutumier d'enquêter, poursuivre, et punir tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la CCT, le gouvernement déclare dans sa réponse que les plaintes déposées par M. A relatives à la torture et aux mauvais traitements ont été transmises au bureau du procureur. Il n'y a pas plus d'information sur le statut d'une investigation ou enquête menée par ce bureau.

374. En l'absence d'information suffisante prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus, et donc, que le gouvernement du Maroc, en échouant à mener une enquête approfondie, efficace, indépendante, impartiale et rapide, a violé son obligation d'investiguer, poursuivre et punir la torture et autres peines ou traitements cruel, inhumains ou dégradants.

(c) JUA 30/07/2014 Case No. MAR 5/2014 State Reply: 13/10/2014 **Allégations reçues concernant l'arrestation et la détention de M. Mahmoud El Haissan, journaliste, qui seraient liées à l'exercice de son droit à la liberté d'opinion et d'expression, ainsi que des allégations relatives à des actes de torture et de mauvais traitement qu'il aurait subis en détention.**

375. Le Rapporteur spécial remercie le gouvernement du Maroc pour sa réponse, datée du 13 octobre 2014, à la présente communication.

376. Le Rapporteur accueille avec intérêt l'information fournie par le gouvernement selon laquelle M. El Haissan a été arrêté pour incitation et participation à des actes de trouble à l'ordre public. En outre, le Rapporteur prend note des investigations sur les actes de M. El Haissan et des indications du gouvernement selon lesquelles il a été arrêté et interpellé en conformité avec les lois marocaines et dans le respect des normes internationales. Le Rapporteur prend aussi note de l'information selon laquelle M. El Haissan bénéficie de tous ses droits en tant que détenu, y inclus le droit à l'accès aux soins médicaux. En ce qui concerne les allégations de torture, le Rapporteur remercie le gouvernement pour l'information selon laquelle des examens médicaux n'ont révélé aucune trace ou marque de violence ou torture. Néanmoins, le Rapporteur spécial voudrait obtenir davantage d'information sur ces examens médicaux afin de savoir s'ils ont été menés de manière impartiale et indépendante et conformément aux standards internationaux établis dans le Protocole d'Istanbul pour la détection de la torture.

377. Le Rapporteur reste également préoccupé par le fait que le gouvernement du Maroc n'a pas apporté de suivi approprié à la plainte de M. El Haissan quant aux allégations de violence et d'actes de torture exercés à son encontre. Cette obligation de suivi de la plainte déposée par la victime est particulièrement importante quand l'allégation de torture est liée à l'obtention et l'utilisation d'aveux écrits. A cet égard, le Rapporteur souligne respectueusement qu'il ne suffit pas pour le Maroc de pondérer de telles confessions comme une forme de preuve parmi plusieurs autres; l'article 15 de la CCT exige que les confessions obtenues sous la torture soient exclues des procédures à l'encontre des personnes ayant fait ces confessions. Déterminer si une confession a été faite volontairement ou sous la contrainte doit être fait indépendamment et ex officio, la charge de prouver que la confession n'a pas été forcée revenant au procureur.

378. Le Rapporteur estime que le gouvernement, dans sa réponse, ne répond pas suffisamment aux préoccupations soulevées dans la communication initiale. Dans ce cas, le Royaume du Maroc ne s'est pas suffisamment conformé à son obligation, en vertu du

droit international coutumier, d' enquêter, poursuivre, et punir tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention Contre la Torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

(d) JAL 13/11/2014 Case No. MAR 7/2014 State Reply: 23/12/2014 **Allégations de détention arbitraire, d'actes de torture et de mauvais traitements et d'absence de soins médicaux appropriés ayant entrainé le décès de M. Hassanna al-Wali.**

379. Le Rapporteur spécial remercie le gouvernement du Maroc pour sa réponse, datée du 23 décembre 2014, à la présente communication.

380. Le Rapporteur accueille avec intérêt l'information fournie par le gouvernement selon laquelle M. al Wali a été arrêté pour incitation et participation à des actes de trouble à l'ordre public. En outre, le Rapporteur prend note de l'information contenue dans le dossier médical de M. al Wali, y inclus l'absence d'une note concernant une injection de glucose et une description détaillée des deux autopsies menées par plusieurs médecins. Le Rapporteur prend également note de l'information relative à l'enterrement de M. al Wali. Le Rapporteur reste toutefois préoccupé par l'absence d'enquête sur les allégations de violence et d'actes de torture contre M. al Wali et 'autres militants sahraouis par le gouvernement du Maroc.

381. Le Rapporteur estime que le gouvernement, dans sa réponse, ne répond pas suffisamment aux préoccupations, obligations légales, et questions soulevées dans la communication initiale, ce qui le pousse à déduire que le gouvernement ne coopère pas pleinement avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13, ainsi qu'à se conformer à son obligation, en vertu du droit international coutumier, à enquêter, poursuivre, et punir tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture (CCT).

382. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus, et donc, que le gouvernement du Maroc, en échouant à apporter le suivi approprié aux allégations de torture, a violé le droit de M. al Wali de ne pas être soumis à la torture et autres peines ou traitements cruels, inhumains ou dégradants, comme prévu dans les articles 1 et 16 de la CCT.

## Myanmar

**(a)** JUA 16/10/2014 Case No. MMR 6/2014 State Reply: None to date **Allegations of arbitrary detention of seven farmers in Chin State and allegations of ill-treatment and torture by Myanmar Army soldiers.**

383. The Special Rapporteur regrets that the Government of Myanmar has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, or to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

384. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Myanmar has failed to protect the physical and mental integrity of the seven farmers in question, and -- through the acts of its agents -- has

violated the farmers' right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(b) JAL 06/11/2014 Case No. MMR 7/2014 State Reply: 14/01/2015 **Allegations concerning the death of Mr. Ko Aung Kyaw Naing, a journalist who died under the custody of the Myanmar Army.**

385. The Special Rapporteur thanks the Government of Myanmar for its reply, dated 14.01.2015, to the present communication.

386. The Rapporteur regrets that the Government, has not, as of the drafting of this report, submitted any substantive reply, addressing the concerns, legal obligations, and questions raised in the initial communication. The Government thus fails to cooperate fully and expeditiously with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

387. In the absence of any information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Myanmar has failed to protect the life and the physical and mental integrity of Mr. Ko Aung Kyaw Naing and has violated his right to be free from torture or cruel, inhuman or degrading treatment, as codified, inter alia in the articles 1 and 16 of the CAT

## Nepal

JAL 03/07/2014 Case No. NPL 2/2014 State Reply: 12/12/2014 Allegations concerning the Nepal Act on **the Commission on Investigation of Disappeared Persons, Truth and Reconciliation, 2071 (2014).**

388. The Special Rapporteur thanks the Government of Nepal for its reply, dated 12/12/14, to the present communication.

389. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication. He welcomes the efforts by the Government to ensure that the Nepal Act on the Commission on Investigation of Disappeared Persons, Truth and Reconciliation, 2071 (2014) is compatible with the country's international obligations.

390. The Special Rapporteur will continue to monitor the situation in Nepal and would like to encourage the Government of Nepal to provide more information and details on the implementation of the Act and the competences of the Commission.

## Nicaragua

JAL 27/10/2014 Case No. NIC 1/2014 State Reply: 25/11/2014 **Alegaciones de la emisión del Decreto Presidencial No. 42-2014 que establece el Reglamento a la Ley No. 779, Ley Integral contra la violencia hacia las mujeres y de reformas a la Ley No. 641 "Código Penal", el cual limitaría el ámbito de aplicación y alcance de la mencionada ley en detrimento del derecho de las mujeres a vivir libres de violencia o de amenaza de violencia de género.**

391. El Relator Especial agradece al Gobierno de Nicaragua por su respuesta, de fecha 25 de octubre del 2014, acusando recibo de la presente comunicación.

392. El Relator Especial da cuenta del esfuerzo del Gobierno en responder a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre la emisión del decreto presidencial Nro.42-2014 que establece el Reglamento a la Ley No. 779, Ley Integral contra la violencia hacia las mujeres, y de reformas a la Ley No. 641 "Código Penal" que limitaría el ámbito de aplicación y alcance de la mencionada ley en detrimento del derecho de las mujeres a vivir libres de violencia o de amenaza de violencia de género.

393. El Relator Especial toma nota de la información ofrecida por el Gobierno de Nicaragua sobre las aclaraciones que formula para entender de forma acabada el contenido del Reglamento a la Ley Integral contra la violencia hacia las mujeres y lo que ello implica para evitar la violencia o amenaza de violencia de género.

394. El Relator Especial puso de resalto que a partir de esta nuevo reglamento se cambiaba el enfoque de la ley, que eran los derechos e intereses de la mujer, por el de la protección, desarrollo y fortalecimiento de la familia. Atento a ello, el Gobierno de Nicaragua respondió que el objetivo del Reglamento es modificar los patrones socio-culturales de conducta de hombres y mujeres para lograr la eliminación de los prejuicios y prácticas basadas en la idea de la inferioridad o superioridad de cualquiera de los dos sexos.

395. Sobre el punto que el Relator Especial resalta respecto del ámbito de aplicación de la ley que queda, a partir de esta modificación, circunscripto a la esfera privada, el Gobierno de Nicaragua sostiene que esta modificación se debe a que el mayor número de casos de violencia de género se suceden dentro de la esfera privada. El Relator Especial considera pertinente extender la protección al ámbito público también.

396. Respecto de los nuevos mecanismos como la Consejería Familiar en la Comunidad y la Consejería Familiar Institucional, el Relator Especial los entiende como una instancia adicional que funcionaría como un obstáculo para las víctimas a su derecho de acceder a la justicia, aumentando la estigmatización de la víctima y arrogándose competencias de mediación que según la ley Nro. 779 sólo tiene el juez o fiscal de la causa. Ante esto, el Gobierno de Nicaragua afirma que las Consejerías funcionan como instancias voluntarias pudiendo la víctima acceder directamente a los canales de justicia ordinarios, y en modo alguno eliminan las funciones propias que tiene la policía, el Ministerio Público y el Poder Judicial de investigar, acusar y juzgar respectivamente.

397. En cuanto a la pretendida modificación del delito de feminicidio al restringirlo a la esfera privada, el Relator Especial resalta que de esta forma se elimina del tipo penal la muerte de una mujer bajo otras circunstancias, como por ejemplo como resultado de ritos grupales o actos cometidos por pandillas. A esto, el Gobierno de Nicaragua responde que el Código Penal y la Ley Nro. 779 garantizan que, sin importar la nomenclatura, la muerte de una mujer será siempre castigada.

398. En relación a las medidas precautelares, el Relator Especial considera que si las víctimas deben primero recurrir a las Consejerías se pierde un tiempo que resulta vital para la protección de la víctima. El Gobierno sostiene que el rol de la Consejería es funcionar como instancia de información para que la policía pueda tomar una decisión respecto de las medidas precautelares objetiva y con suficiente contexto. Sin embargo, la única instancia en donde se puede obviar la consulta comunitaria es cuando la víctima o sus hijos se encuentran en riesgo, criterio que resulta demasiado vago y puede verse sujeto a manipulación que ponga eventualmente en peligro la vida de la víctima. En cuanto a las medidas cautelares, el Gobierno responde que siguen en manos del juez y no se debe consultar a las expresiones comunitarias.

399. El Relator Especial concluye que si bien las respuestas del Gobierno permiten rodear de mayor certeza la aplicación del nuevo Reglamento, no puede dejar de resaltar que el requisito de urgencia para poder obviar la consulta comunitaria en las medidas

precautelates genera un riesgo innecesario en la victima que impediria proteger efectivamente a las mujeres y a su derecho de vivir libres de violencia o de amenaza de violencia de género, que inclusive pudiera conllevar su muerte.

## Nigeria

(a) JAL 28/03/2014 Case No. NGA 2/2014 State Reply: None to date **Allegations concerning attacks against a group of men on grounds of their actual or perceived sexual orientation, and police inaction with regards to these attacks, on 12 and 13 February 2014 in Gishiri village, Abuja.**

400. The Special Rapporteur regrets that the Government of Nigeria has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

401. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Nigeria failed to protect the physical and psychological integrity of the men in question, thereby paving the way for sexual violence. By its failure to investigate, prosecute and punish the perpetrators, the State has violated the right of the former to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. The State must conduct a fair and impartial investigation into the episode and prosecute and punish those responsible for the assault on these persons, as well as the policemen who failed to protect them from the violence.

(b) JAL 22/08/2014 Case No. NGA 5/2014 State Reply: None to date **Allegations of acts of torture and summary executions committed by members of the Nigerian military and the Civilian Joint Task Force (CJTF) in February, March and July 2014.**

402. 1. The Special Rapporteur regrets that the Government of Nigeria has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

403. 2. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Nigeria failed to protect the lives and the physical and mental integrity of detainees under control of its agents, and has thereby violated the right of these individuals to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Pakistan

(a) Case No JUA 14/02/2014. PAK 2/2014 State Reply: 18/02/2014 **Allegations concerning the case of Mr. Mohammad Asghar, sentenced to death in Rawalpindi on charges of blasphemy, despite being diagnosed with psychosocial disabilities and whose execution is to take place in the Islamic Republic of Pakistan.**

404. The Special Rapporteur thanks the Government of Pakistan for its reply, dated 18.02.2014, acknowledign reccipt of the present communication.

405. The Rapporteur regrets that the Government has not, as of the drafting of this report, submitted any substantive reply.

406. The Rapporteur hence finds that the Government has not addressed the legal concerns raised in the communication; the Government fails to cooperate fully and expeditiously with the mandate issued by the Human Rights Council in its resolution 25/13 as well as to comply with its obligation, under international and national law.

407. In particular, Pakistan violated the rights of Mr. Asghar in that it applied the death penalty to a person with mental disabilities; that it imposed it for a non-violent crime that in addition may have been protected speech; and that in doing so it inflicted severe pain and suffering through the death row phenomenon and the method of execution.

408. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

409. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Pakistan, by not taking steps to prevent the execution of Mr. Asghar, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as described in articles 1 and 16 of the CAT.

(b) JUA 03/04/2014 Case No. PAK 4/2014 State Reply: 04/04/2014 **Allegations concerning the situation of Mr. Nasrullah Baloch and his family. Mr. Nasrullah Baloch is the Chairman of Voice for Baloch Missing Persons (VBMP), a non-governmental organization which was founded in 2009 by families of victims of enforced disappearances. The organization voices concerns on behalf of families of disappeared persons and campaigns for their safe return.**

410. The Special Rapporteur thanks the Government of Pakistan for its reply, dated 04.04.2014, acknowledging receipt of the present communication.

411. The Rapporteur welcomes the Government's intent to consider his communication; however, he regrets that the Government has not, as of the drafting of this report, submitted, as announced in its initial reply, any substantive reply.

412. The Rapporteur finds that the Government, in its reply, does not sufficiently address the legal concerns raised regarding threats and intimidation of Mr. Baloch and his family in connection with his advocacy of the rights of relatives of persons who have disappeared in Balochistan. The Government thereby fails to cooperate fully and expeditiously with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

413. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Pakistan, by failing to assure the safety of Mr. Nasrullah Baloch and his family, and investigate any allegations of harassment and threats for his

work on behalf of the victims of enforced disappearances, has violated the right of Mr. Nasrullah Baloch to be free from torture or cruel, inhuman or degrading treatment, as described in articles 1 and 16 of the CAT.

(c) JUA 05/06/2014 Case No. PAK 9/2014 State Reply: None to date. **Allegations concerning the case of Ms. Farzana Parveen, who was brutally murdered by members of her own family in what they call an "honour killing" for marrying a man of her choice.**

414. The Special Rapporteur regrets that the Government of Pakistan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

415. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations that Ms. Parveen, who was three months pregnant, was beaten and killed by family members, and thus, that the Government of Pakistan, failing to protect the physical and psychological integrity of Ms. Parveen, has violated her right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

416. The Special Rapporteur requests the Government of Pakistan to provide information on any criminal investigations arising out of this incident, and an explanation of measures taken to prevent similar crimes to be perpetrated in the future.

## Panama

(a) JUA 11/07/2014 Case No. PAN 1/2014 State Replies: 28/10/2014 and 14/11/2014 **Alegaciones de tratos crueles, inhumanos y degradantes que habría sufrido la Sra. Mayte Pellegrini.**

417. El Relator Especial agradece al Gobierno de Panamá por su respuesta, de fecha 18 de noviembre del 2014, acusando recibo de la presente comunicación.

418. El Relator Especial da cuenta del esfuerzo del Gobierno en responder a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre las alegaciones de tratos crueles, inhumanos y degradantes que habría sufrido la Sra. Mayte Pellegrini.

419. El Relator Especial toma nota de la información ofrecida por el Gobierno de Panamá sobre el relato de los hechos; las investigaciones que se están llevando a cabo para esclarecer el presente caso y sobre las medidas otorgadas para garantizar la seguridad física y psicológica de la Sra. Pellegrini; y aprecia su voluntad de esclarecer las alegaciones y establecer las modificaciones institucionales y legales que hagan falta para que esta situación no se repita. Sin embargo, el Relator Especial desea resaltar que la Convención contra la Tortura establece la obligación de los Estados parte de tomar medidas legislativas, administrativas, judiciales o de otra índole eficaces para impedir todo acto "por el cual se inflija intencionalmente a una persona dolores o sufrimientos graves, ya sean físicos o mentales, con el fin de obtener de ella o de un tercero información o una confesión, de castigarla por un acto que haya cometido, o se sospeche que ha cometido, o de intimidar o coaccionar a esa persona o a otras, o por cualquier razón basada en cualquier tipo de discriminación, cuando dichos dolores o sufrimientos sean infligidos por un funcionario público u otra persona en el ejercicio de funciones públicas, a instigación suya, o con su consentimiento o aquiescencia". La falta de información en el expediente sobre las requisas

a la celda de la Sra. Pellegrini, y el trato que recibió mientras se realizaban evidencia el incumplimiento con sus obligaciones por parte de las autoridades del penal.

420. El Relator Especial reconoce el cumplimiento del Gobierno de Panama con su deber de investigar las alegaciones de tortura y tratos crueles, inhumanos y degradantes como establecen los artículos 7 y 12 de la Convención contra la Tortura (CAT) y el párrafo 7 (b) de la Resolución 16/23 del Consejo de Derechos Humanos. Sin embargo, ante la falta de información suficiente que indique lo contrario y ateniо al reconocimiento de ello por el Gobierno de Panamá, el Relator concluye que hay sustancia en las alegaciones presentadas en la comunicación inicial, reiteradas arriba, y por lo tanto, que el Gobierno de Panamá, al no tomar medidas para prevenir la violación a la integridad física y psicológica de la Sra. Pellegrini, derivada de los tratos crueles, inhumanos y degradantes, ha violado sus derechos a no ser torturada ni sometida a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT.

(b) JUA 21/11/2014 Case No. PAN 2/2014 State Reply: 19/01/2015 **Alegaciones de la privación de libertad de naturaleza presuntamente arbitraria del Embajador Arthur Porter, y fallas en asegurar el pronto y adecuado tratamiento médico requerido con urgencia.**

421. El Relator Especial agradece al Gobierno de Panamá por su respuesta, de fecha 19 de enero del 2015, acusando recibo de la presente comunicación.

422. El Relator Especial toma nota de la respuesta ofrecida por el Gobierno de Panamá y da cuenta de que, al momento de la redacción de este informe el Gobierno de Panamá no había remitido ninguna información como fuera prometido en la respuesta de fecha 19 de enero de 2015.

423. En vista de la especial gravedad de los hechos que se alegan –privación de la libertad del embajador Arthur Porter sin orden judicial de detención; encontrarse detenido en una celda en condiciones inhumanas y degradantes en una prisión superpoblada y con escasas condiciones sanitarias sin supervisión judicial hace más de un año y medio; presentación de recursos de amparo que no son tramitados y habiéndosele negado la posibilidad de tratamiento médico para el cáncer de pulmón que padece-, y teniendo en cuenta la urgencia de la situación, el Relator Especial afirma que el Gobierno de Panamá no ha cooperado plena y rápidamente con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

424. Ante la falta de información suficiente que indique lo contrario, el Relator concluye que hay sustancia en las alegaciones presentadas en la comunicación inicial, reiteradas arriba, y por lo tanto, que el Gobierno de Panamá, al mantener al Embajador Arthur Porter en condiciones de detención inhumanas y degradantes, negándole tratamiento médico para su padecimiento de cáncer de pulmón ha violado su derecho a no ser torturado ni sometido a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT.

## Papua New Guinea

(a) JAL 27/03/2014 Case No. PNG 2/2014 State Reply: None to date **Allegations concerning the circumstances and conditions of detention of asylum seekers at the Manus Island Regional Processing Centre and the recent violence that erupted in Manus Island.**

425. The Special Rapporteur regrets that the Government of Papua New Guinea has not replied to the present communication, thereby failing to cooperate with the mandate issued

by the Human Rights Council in Resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

426. In the absence of information to the contrary, the Rapporteur concludes that the allegations presented in the initial communication are substantially proven: by failing to take all the necessary measures to guarantee the rights and freedoms of migrants and asylum seekers, the Government of Papua New Guinea, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

**(b)** JUA 19/06/2014 Case No. PNG 3/2014 State Reply: None to date. **Allegations of attacks and threats against Mr. X and his family who have been accused of acts of sorcery.**

427. The Special Rapporteur regrets that the Government of Papua New Guinea has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

428. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, that the Commander of the Kundiawa Police Station, the local police, and others have threatened and attacked Mr. X and his family, assaulted Mr. X's wife, and unlawfully detained other family members. Thus, the Rapporteur concludes that that the Government of Papua New Guinea, by failing to protect Mr. X and his family from physical and psychological wellbeing has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided for in articles 1 and 16 of the CAT.

**(c)** JUA 17/11/2014 Case No. PNG 4/2014 State Reply: None to date. **Allegations of acts of intimidation and ill-treatment of two asylum-seekers.**

429. The Special Rapporteur regrets that the Government of Papua New Guinea has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

430. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, that asylum-seekers in the Manus Regional Processing Centre have experienced regular threats and intimidation as well as violent attacks, and that two asylum seekers were further subjected to threats and physical ill-treatment for having reported the violent attack. Thus, the Rapporteur concludes that the Government of Papua New Guinea, by failing to protect two asylum seekers who were subjected to intimidation and ill-treatment, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided for in articles 1 and 16 of the CAT.

## Philippines

**(a)** JAL 16/09/2014 Case No. PHL 4/2014 State Reply: None to date. **Allegations of reforms to the Penal Code which do not appear in compliance with international human rights law and standards.**

431. The Special Rapporteur regrets that the Government of the Philippines has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

432. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of the Philippines, by failing to revise the proposed provisions of the Code of Crimes, will likely violate women and girls' right to be free from torture or cruel, inhuman or degrading treatment, as provided for in articles 1 and 16 of the CAT.

(b) JAL 27/11/2014 Case No. PHL 5/2014 State Reply: None to date. **Allegations concerning the slow progress of the trial in the case of the "Maguindanao Massacre," the killing of witnesses to the trial, the lack of reparations, including compensation and satisfaction, to the survivors and families of the victims, as well as the restricted access of the media to the trial's hearings and proceedings.**

433. The Special Rapporteur regrets that the Government of Philippines has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

434. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, that no proceedings in individual cases related to the "Maguindanao Massacre" have concluded; and that witnesses have been killed and their family members have been attacked, threatened, and harassed. Thus, the Rapporteur concludes that the Government of the Philippines, by failing to protect the physical and psychological integrity of at least four witnesses who were subsequently killed and by failing to provide reparations to survivors and their families, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided for in articles 1 and 16 of the CAT.

## Qatar

JUA 24/02/2014 Case No. QAT 1/2014 State Reply: 07/04/2014 **Allegations concerning human rights violations regarding the arrest, detention, trial and conviction of Mr. Juan Pablo Iragorri Medina, a Colombian national currently held in detention in the Central Prison in Doha.**

435. The Special Rapporteur thanks the Government of Qatar for its reply, dated 07.04.2014, to the present communication.

436. The Rapporteur takes note of the information provided by the Government regarding the facts of Mr. Irragori Medina's prosecution. However, he regrets that no substantive investigation, addressing the claims of torture and ill-treatment seems to have taken place.

437. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/23, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture

and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

438. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

439. Being aware of the arbitrary nature of any effort to establish a moment in time when an already harsh regime becomes prolonged and therefore unacceptable, the Special Rapporteur defined prolonged solitary confinement as any period of solitary confinement in excess of 15 days (A/66/268). This definition was based on the large majority of scientific studies which indicate that after 15 days of isolation harmful psychological effects often manifest themselves and may even become irreversible. The Special Rapporteur recalls that when used indefinitely or for long periods, solitary confinement amounts to cruel, inhuman or degrading treatment or punishment or even torture, because it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156.

440. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Qatar, by failing to protect the physical and mental integrity of Mr. Irragori Medina, prevent his prolonged solitary confinement, and exclude evidence obtained under torture or ill-treatment, has acted in violation of article 15 of the CAT, and violated his right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided by articles 1 and 16 or the CAT. With regards to the present case, the Special Rapporteur recalls paragraph 6 of General Comment No. 20 of the Human Rights Committee as well as article 7 of the Basic Principles for the Treatment of Prisoners (Adopted by the General Assembly by resolution 45/111 of 14 December 1990).

## Russian Federation

**(a)** JAL 10/12/2013 Case No. RUS 11/2013 State Reply: 19/02/2014 **Allegations concerning the case of Mr. A, born in 1980, citizen of the Russian Federation, residing in B, C city, D, Russian Federation. Mr. A is a drug-dependent person, living with HIV, has tuberculosis and Hepatitis C.**

441. The Special Rapporteur thanks the Government of Russian Federation for its reply, dated 19.02.2014, to the present communication.

442. The Rapporteur takes note of the information provided by the Government that a judicial investigation was conducted into the allegations of Mr. A's torture and ill-treatment and that they were dismissed and his conviction upheld. On the other hand, a complaint by Mr. A and his lawyer about the same mistreatment was first dismissed and later reinstated as not having been duly investigated. The latter proceedings are said to be pending, and the Special Rapporteur would welcome an update. Given all this, it appears that no effort has

been made to suppress evidence that may have been obtained under torture or at least to reopen the criminal case until such matter is fully determined.

443. The Government's response confirms that Mr. A is not given alternative treatment for his drug addiction and states that Russian law on public health does not make those treatments available. The Rapporteur respectfully submits that certain alternative treatments are science-based and authoritatively recommended by specialized health rights organs, such as the Committee on Economic, Social and Cultural Rights and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. They are a viable alternative to what otherwise is treatment that inflicts unnecessary and severe pain and suffering (A/HRC/22/53). Whether or not the aforementioned recommendations are binding as a matter of international law, the Russian Federation is without a doubt bound by the prohibition on cruel, inhuman or degrading treatment and must find treatment alternatives that are less painful. In addition, the Standard Minimum Rules on the Treatment of Prisoners establish clearly the obligation to provide inmates with the same standard of health care available in the community.

444. The Rapporteur concludes that Mr. A has not been provided with treatment that protects him from cruel, inhuman and degrading means of dealing with his drug addiction. The Rapporteur welcomes the detailed information received and looks forward to the outcome of the inquiry into alleged torture and ill-treatment, as well as its impact on his prosecutions.

(b) JUA 09/12/2013 Case No. RUS 12/2013 State Reply: 29/01/2014 **Allegations concerning the case of Mr. Ismon Azimov, a citizen of the Republic of Tajikistan, born in 1979, who had been granted temporary asylum in the Russian Federation and then disappeared in unexplained circumstances. Mr. Azimov was the subject of the final judgment of the European Court of Human Rights dated 9 September 2013, stating that his extradition would give rise to a violation of Article 3 of the European Convention on Human Rights (Azimov v. Russia, Application #67474/11).**

445. The Special Rapporteur thanks the Government of the Russian Federation for its reply, dated 29.01.2014, to the present communication.

446. The Rapporteur welcomes the information provided by the Government on an investigation into the whereabouts of Mr. Azimov, as well as the changes made to assure the security of refugees and migrants in Russia. However, he regrets that the Government has failed to provide any substantive information on Mr. Azimov's fate after his disappearance or to assure the Rapporteur that he has not been extradited back to Tajikistan, in contravention of the decision by the European Court of human Rights.

447. The Rapporteur finds that the Government's reply does not sufficiently address the concerns raised in the initial communication. The Government fails to cooperate fully and expeditiously with the mandate issued by the Human Rights Council in its resolution 25/23, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

448. In the absence of substantial information to the contrary, the Rapporteur concludes that the Russian Federation is responsible for the disappearance and possible illegal refoulement of Mr. Azimov to Tajikistan, where he faces torture and ill-treatment, in violation of customary international law as codified in article 3 of the CAT, and violated his right to be free from torture and other cruel, inhuman or degrading treatment or punishment.

449. The Rapporteur condemns the illegal extradition and urges the Government of the Russian Federation to rescind it, ensure the return of Mr. Azimov to Russia. Moreover, the

Rapporteur calls on the Government to take appropriate measures to ascertain that extraditions, deportations or expulsions in violation of the non-refoulement provision do not take place in the future, including the investigation, prosecution and punishment of those responsible for the illegal extradition of Mr. Azimov to Tajikistan.

(c) JAL 20/12/2013 Case No. RUS 14/2013 State Reply: 20/01/2014 **Allegations of arbitrary detention and mistreatment of 30 environmental activists following their participation in a demonstration organized by Greenpeace against oil drilling in the Arctic.**

450. The Special Rapporteur thanks the Government of Russian Federation for its reply, dated 20.01.2014, to the present communication.

451. The Rapporteur takes note of the information provided by the Government, regarding the criminal prosecution of the thirty Greenpeace activists. However, he regrets that no substantial investigation into the allegations of inhuman and degrading treatment has taken place.

452. The Rapporteur finds that the Government's reply does not sufficiently address the concerns raised in the initial communication. The Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/23, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

453. In the absence of substantial information to the contrary, the Rapporteur concludes that the allegations presented in the initial communication have been substantiated. By failing to secure minimum standards for the detention and humane treatment of the Greenpeace activists or to investigate the allegations of inhuman and degrading treatment, the Government of the Russian Federation has violated their right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided by articles 1 and 16 or the CAT.

(d) JAL 31/03/2014 Case No. RUS 4/2014 State Reply: 14/07/2014 **Allegations of torture while in detention of Mr. Ruslan Kutayev and threats against his lawyer, Mr. Igor Kalyapin.**

454. The Special Rapporteur thanks the Government of Russian Federation for its reply, dated 14.07.2014, to the present communication.

455. The Rapporteur takes note of the information provided by the Government, regarding the criminal prosecution of Mr. Kutayev. However, he regrets that no substantial investigation into the allegations of inhuman and degrading treatment has taken place.

456. The Rapporteur finds that the Government's reply does not sufficiently address the concerns raised in the initial communication. The Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

457. In the absence of substantial information to the contrary, the Rapporteur concludes that the allegations presented in the initial communication regarding mistreatment of Mr. Ruslan Kutayev while in detention and threats against his lawyer have been substantiated. They constitute torture and cruel, inhuman or degrading treatment respectively. Therefore, the Government of the Russian Federation has failed to assure the physical integrity of Mr. Kutayev or to secure Mr. Kalaypin's right to be free from intimidation, which violates their

right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided for in customary international law as codified in articles 1 and 16 or the CAT.

## Saudi Arabia

(a) JUA 03/02/2014 Case No. SAU 1/2014 State Reply: None to date **Allegations of arrest and detention of Mr. Fawzan Mohsen Awad Al Harbi, for his public advocacy as the Deputy President of the Saudi Civil and Political Rights Association (ACPRA), and of harsh conditions of his imprisonment.**

458. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention Against Torture (CAT).

459. In the absence of information to the contrary, the Rapporteur finds that Mr. Al-Harbi is held in prison conditions that amount to cruel, inhuman or degrading treatment or punishment as a result of overcrowding and denial of minimal health and safety services. The Government of Saudi Arabia, by failing to protect Mr. Awad Al Harbi against intimidation as a consequence of his work to combat torture, and ensure adequate conditions of detention, has acted in violation of article 13 and denied him his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(b) JUA 02/04/2014 Case No. SAU 4/2014 State Reply: None to date **Allegations concerning the case of Ms. Satinah Binti Jumadi Ahmad, who is reportedly at risk of imminent execution in Saudi Arabia.**

460. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention Against Torture (CAT).

461. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

462. In this case, the death penalty was imposed on Ms. Jumadi Ahmad without appropriate consideration of her plea of self-defense or the mitigating circumstance of past abuse and humiliation in the hands of her employer.

463. It has come to the attention of the Special Rapporteur that the execution of Ms. Jumadi Ahmad has been called off. The Rapporteur welcomes the decision of the

Government of Saudi Arabia to refrain from executing her and strongly urges the Government to refrain from, and abolish, the practice of executions.

(c) JUA 24/04/2014 Case No. SAU 5/2014 State Reply: None to date **Allegations of arbitrary detention and ill-treatment in detention of Mr. Waleed Abu Al-Khair.**

464. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to the present communication, thereby failing to cooperate with the mad ate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention Against Torture (CAT).

465. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and is running afoul the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

466. In the absence of information to the contrary, the Rapporteur finds that Mr. Al-Khair has been detained for his human rights advocacy, held in solitary confinement, deprived of contact with lawyers and family and subjected to sleep deprivation. By failing to prevent the arbitrary detention, solitary confinement and ill treatment of Mr. Al-Khair the Government of Saudi Arabia violates his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. With regards to the present case, the Special Rapporteur recalls that these practices have been authoritatively deemed to breach a State's obligations under international law, inter alia, in paragraph 6 of General Comment No. 20 of the Human Rights Committee and in article 7 of the Basic Principles for the Treatment of Prisoners (Adopted by the General Assembly by resolution 45/111 of 14 December 1990).

(d) JUA 05/05/2014 Case No. SAU 6/2014 State Reply: None to date **Allegations concerning the verdict against Fadhel Maki Al Manasif to 15 years imprisonment, subsequent 15-year travel ban and a fine of 100,000 Saudi Riyals (about 26,700 USD).**

467. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT). He notes that the Government had similarly failed to respond to an Urgent Action sent in 2011 regarding allegations to physical and psychological torture against Mr. Al Manasif, a human rights defender.

468. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Saudi Arabia, by failing to protect the physical and psychological integrity of Mr. Al Manasif during his detention, has violated his right to be

free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(e) JAL 04/09/2014 Case No. SAU 10/2014 State Reply: None to date **Allegations concerning several cases of death sentences by beheading for nonviolent offenses in Saudi Arabia.**

469. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

470. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). In particular, certain methods of execution, like beheading, constitute cruel, inhuman or degrading punishment. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79). In addition, he calls upon retentionist States to end the practice of executions with little or no prior warning given to condemned prisoners and their families (para. 80 (c)).

471. It has come to the attention of the Special Rapporteur, that 22 persons have been executed since August 2014 for the commission of nonviolent crimes including drug smuggling and alleged sorcery. The Rapporteur also expresses grave concern that confessions from detainees were obtained under torture and concern regarding the use of beheading as a form of execution, which is in violation of international law. The Rapporteur strongly condemns the executions and concludes that the Government of Saudi Arabia has acted in violation of article 15 of the CAT, and violated their right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided by articles 1 and 16 or the CAT. The Rapporteur calls on the Government of Saudi Arabia to take appropriate measures in order to ascertain that the practice of executions be abolished in the future, including by undertaking a prompt, impartial, and effective investigation of the alleged acts of torture, prosecuting and punishing the responsible for those acts, and providing redress to families of the victims.

(f) JUA 03/10/2014 Case No. SAU 11/2014 State Reply: None to date **Allegations concerning the arrest, the detention and the severe sentences, including corporal punishment, of members of the Saudi Civil and Political Rights Association (ACPRA), as well as allegations of prolonged solitary confinement and incommunicado detention.**

472. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

473. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or

punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and it runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

474. Being aware of the arbitrary nature of any effort to establish a moment in time when an already harsh regime becomes prolonged and therefore unacceptable, the Special Rapporteur defined that prolonged solitary confinement is any period of solitary confinement in excess of 15 days (A/66/268) under conditions of total isolation. This definition was based on the large majority of scientific studies which indicate that after 15 days of isolation harmful psychological effects often manifest and may even become irreversible. For solitary confinement that includes some mitigating factors, such as access to reading and writing materials, radio or television, the term of legitimate use of isolation may exceed 15 days but would still have to be counted in days, not weeks or months or years. The Special Rapporteur recalls that when used indefinitely or for long periods, solitary confinement amounts to cruel, inhuman or degrading treatment or punishment or even torture, because it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156.

475. The Special Rapporteur recalls that any form of corporal punishment constitutes cruel, inhuman or degrading punishment in violation of customary international law. An imposition of such penalty, even if not actually executed, is itself a threat of pain and suffering of a mental nature that is equally prohibited by international law.

476. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, that members of ACPRA, including Mr. Sheikh Suliaman al-Rashudi, Dr. Abdullah al-Hamid, Dr. Mohammad al-Qahtani, Dr. Abdulkareem Yousef al-Khoder, Mr. Mohammed Saleh al-Bajadi, Mr. Omar al-Hamid al-Saeed and Dr. Abdulrahman al-Hamid have been arbitrarily detained and have been placed in solitary confinement and incommunicado detention. Thus, that the Government of Saudi Arabia, by failing to protect the physical and mental integrity of the members of ACPRA, has violated their right to be free from torture and other cruel, inhuman or degrading treatment or punishment as provided by articles 1 and 16 or the CAT. With regards to the present case, the Special Rapporteur recalls paragraph 6 of General Comment No. 20 of the Human Rights Committee as well as article 7 of the Basic Principles for the Treatment of Prisoners (Adopted by the General Assembly by resolution 45/111 of 14 December 1990).

## Serbia

JUA 28/07/2014 Case No. SRB 1/2014 State Replies: 18/11/2014 and 11/12/2014 **Allegations of attacks, threats and acts of intimidation against the non-governmental organization Women in Black and its members.**

477. The Special Rapporteur thanks the Government of Serbia for its replies, dated 18.11.2014 and 11.12.2014 to the present communication.

478. The Rapporteur takes note of the information provided by the Government that the trial for Radomir Pocuca, former spokesperson of the Anti-Terrorist Unit of the Ministry of

Interior, was due to start on September 17, 2014; and that four persons accused of attacking members of Women in Black were apprehended, but subsequently released by a court decision issued on July 11, 2014. Misdemeanor charges were filed against several persons for insulting and threatening the Women in Black, and criminal charges for others for impeding the actions of a law enforcement official. Those proceedings were pending at the time of the government's reply. The Rapporteur takes note of the Government's information regarding the will to continue to implement measures that ensure the right to freedom of option and expression, peaceful assembly and association, and the promotion of truth through commemorations of victims of gross human rights violations.

479. The Government's reply does not refer to the fact that the attacks by a right-wing nationalist group against the Women in Black was instigated via Facebook by Mr. Pocuca, who was then a spokesman for the Anti-Terror Unit of the Ministry of Interior and as such a high government official.

480. In the absence of sufficient information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, that members of the human rights organization were physically threatened and attacked while exercising their right to freedom of peaceful assembly, and that such an attack was prompted by a Government official. The Rapporteur expects to receive further information from the Government as to the outcome of the ongoing proceedings, appropriate sanctions to perpetrators and instigators, and other remedies afforded to the Women in Black members.

## Spain

(a) JOL 25/03/2014 Case No. ESP 3/2014 State Reply: 08/07/2014 **Alegaciones relativas a la adopción de la Ley Orgánica 1/2014, de modificación de la Ley Orgánica 6/1985 del Poder Judicial, relativas a la justicia universal.**

481. El Relator Especial agradece al Gobierno de España por su respuesta, de fecha 8 de julio del 2014, acusando recibo de la presente comunicación.

482. La comunicación se refería a la reforma de la Ley Orgánica 6/1985 a través de la sanción de la Ley Orgánica 1/2014 del 13 de marzo de 2014.

483. España ha sido reconocido por sentar precedente en la comunidad internacional al combatir, juzgar y sancionar crímenes internacionales y violaciones graves de los derechos humanos y del derecho internacional humanitario, incluyendo actos de tortura y desaparición forzada o involuntarias cometidos en otros países bajo la utilización del principio de jurisdicción universal. La nueva ley restringiría la aplicación del principio de jurisdicción universal por los tribunales españoles de investigar y enjuiciar graves crímenes de derecho internacional. El Relator Especial se encuentra particularmente preocupado por la disposición transitoria que establece que la ley tendría efecto retroactivo, aplicándose a todas las investigaciones actualmente en curso. A raíz de ello todos los procesados quedarías sobreseídos. El Relator hace referencia al tercer postulado de los Principios Básicos relativos a la Independencia de la Judicatura que afirma "la judicatura será competente en todas las cuestiones de índole judicial y tendrá autoridad exclusiva para decidir si una cuestión que le haya sido sometida está dentro de la competencia que le haya atribuido la ley".

484. El Relator Especial sostiene que, bajo esta nueva disposición, el gobierno de España incumple con su obligación de actuar de manera diligente respecto de la prevención, investigación o procesamiento de actos de tortura y malos tratos derivando así en la responsabilidad internacional del Estado. El Relator Especial afirma que esta reforma traerá consigo la impunidad por la falta de investigación, procesamiento y sanción a los

responsables así como la ausencia del derecho a la verdad de toda la sociedad. El Relator Especial reitera su llamamiento al Gobierno a asegurar la investigación, procesamiento y eventual condena de los responsables de las violaciones del art. 1 de la CAT acontecidas en otros países, por presuntos autores que no son nacionales y contra víctimas también extranjeras.

(b) JAL 28/07/2014 Case No. ESP 4/2014 State Reply: None to date **Alegaciones relativas al proyecto de "Ley orgánica para la protección de la vida del concebido y los derechos de la mujer embarazada", el cual limitaría el acceso al aborto para las mujeres y niñas en España.**

485. El Relator Especial lamenta que, hasta la fecha, el Gobierno de España no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

486. Ante la falta de información que indique lo contrario, el Relator concluye que el Gobierno de España, al no garantizar a las mujeres y niñas el más alto nivel posible de salud al imponer ciertos requisitos que funcionarían como obstáculos para la realización del aborto es responsable por sus sufrimientos físicos y mentales en los que esta medida pueda derivar y ha violado sus derechos a no ser torturadas o sometidas a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT.

## Sri Lanka

JAL 07/07/2014 Case No. LKA 7/2014 State Replies: 18/08/2014 and 26/11/2014 **Allegations concerning Ms. X, a woman of Tamil origin who has reportedly been beaten up and repeatedly harassed since she reported two military officers raped her.**

487. The Special Rapporteur thanks the Government of Sri Lanka for its replies dated 18.08.2014 and 26.11.2014 to the present communication.

488. The Rapporteur takes note of the information provided by the Government, confirming that four army officers (three corporals and one private) were indicted for their involvement in the rape in 2010 of Ms. X; that Ms. X's home was raided in February 2014 by the Mullaithivu Division Police Anti-Vice Unit; and that a warrant for her arrest on charges of selling liquor without a license was outstanding as of November 2014 due to her failure to appear in court.

489. The Government's reply explained that the four army soldiers were indicted by the Attorney General in August 3, 2012, and that the accused were terminated by the army. As of the Government's reply, the proceedings had not ended and therefore the four accused have not yet been convicted, although the rape occurred in 2010 more than four years earlier. In addition, the Government's reply insists that the actions of State agents against Ms. X that took place in 2004 (and were the object of the Rapporteur's latest communication), purporting to charge her with unauthorized sale of liquor, are "unrelated" to her complaint of having been raped in 2010. The Rapporteur finds this answer unsatisfactory, since the first action of this sort, in May 2013, happened two days before the court was to hold the trial of the four soldiers for the rape of Ms. X, and the several subsequent acts seem to constitute harassment as the proceedings in the rape case are continuing. The Government claims to have no record of, and the reply fails to address the subsequent alleged attack on 22 March 2014 and the arrest in May 2013.

490. Notwithstanding the information presented by the Government, the Rapporteur concludes that the Government of Sri Lanka, by failing to protect the physical and mental integrity of Ms. X, has violated her right to be free from torture or cruel, inhuman or degrading treatment, as provided for in articles 1 and 16 of the CAT.

## Sudan

(a) JUA 14/05/2014 Case No. SDN 2/2014 State Reply: None to date **Allegations concerning the case of Ms. Meriam Ibrahim who is facing punishments of public flogging and execution if found guilty on charges of apostasy and adultery in a hearing to be held on 15 May 2014.**

491. The Special Rapporteur regrets that the Government of Sudan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

492. The Joint Urgent Action included allegations that Ms. Ibrahim, a woman who was raised as a Christian and is accused of apostasy for marrying a Christian man, was subjected to beatings, aggressive interrogation, denial of food and of access to a lawyer while detained in Omdurman Women's Prison. At the time of the urgent appeal, she was close to giving birth to a child. It was also alleged that a court had invalidated her Christian matrimony and given her three days to "return to Islam".

493. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

494. In addition, the penalty of flogging is, under any circumstance, a violation of the absolute prohibition on torture.

495. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Sudan, by failing to protect the physical and psychological integrity of Ms. Ibrahim, has violated her right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

496. It has come to the attention of the Special Rapporteur, that, as of the drafting of this report, the execution of Ms. Ibrahim has not taken place and that she and her family have taken refuge in the United States. The Rapporteur strongly urges the Government of Sudan to refrain from and abolish the practice of flogging and of executions.

(b) JUA 09/12/2013 Case No. SDN 3/2014 State Reply: 06/06/2014 **Allegations concerning the arrest and incommunicado detention of Mr. Mohamed Salah Mohamed Abdelrhman, intimidation of his family and attack on one of his family members.**

497. The Special Rapporteur thanks the Government of Sudan for its reply, dated 06.06.2014, to the present communication.

498. The Rapporteur welcomes the Government's assurance to cooperate with the Human Rights Council and its promise to review Mr. Mohamed Abdelrahman's situation and that of his family. However, the Rapporteur regrets that the Government has not, as of the drafting of this report, submitted any substantive reply.

499. The Rapporteur hence finds that the Government's reply does not sufficiently address the concerns raised in the initial communication. The Government fails to cooperate fully and expeditiously with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

500. In the absence of information to the contrary, the Rapporteur concludes that the allegations presented in the initial communication regarding the incommunicado detention of Mr. Abdelrhman, intimidation of his family and attack against one of his relatives have been substantiated. By holding him incommunicado and failing to protect his physical and psychological integrity, or to investigate his whereabouts and detention conditions, and failing likewise protect his family from intimidation and physical attacks, the Government of Sudan has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Sweden

JUA 19/11/2014 Case No. SWE 1/2014 State Reply: 14/01/2015 **Allegations concerning the expulsion of Afghan journalist Mr. Saif Ur Rahman Shirzad from Sweden to Afghanistan, considering the risks he may face, if expelled, in relation to his work as journalist, including risks of death or to be subject to torture or cruel, inhuman, or degrading treatment.**

501. The Special Rapporteur thanks the Government of Sweden for its reply, dated 14.01.2015, to the present communication.

502. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication.

503. He takes note of the information provided by the Government that Mr. Shirzad will be appointed legal counsel for the re-examination of his need for protection in Sweden.

504. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the extradition of Mr. Shirzad to Afghanistan has not taken place. The Rapporteur strongly urges the Government of Sweden to protect the right of Mr. Shirzad to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT, and to refrain from extraditing Mr. Shirzad to Afghanistan thereby ensuring compliance with article 3 of the CAT.

## Switzerland

UA 19/12/2013 Case No. CHE 3/2013 State Reply: 14/01/2014 **Allégations de traitements cruels, inhumains ou dégradants envers M. Mohamed Abdelmohsen Ahmed**

505. Le Rapporteur spécial remercie le gouvernement de la Confédération suisse pour sa réponse, datée du 14 janvier 2014, à la présente communication.

506. Le Rapporteur a pris connaissance de l'explication exhaustive du gouvernement en réponse aux préoccupations, obligations légales et questions soulevées dans la communication initiale. Il prend note de l'information fournie par le gouvernement selon laquelle M. Ahmed n'a pas été maltraité et a accès à son avocat et à une supervision médicale.

507. En outre, le gouvernement s'est assuré que M. Ahmed a régulièrement accès à une supervision médicale et a gardé M. Ahmed sous traitement médical suite à sa grève de la faim, entre le 19 décembre 2013 et le 7 janvier 2014.

508. Dans sa réponse, le gouvernement suisse déclare que les informations médicales et judiciaires concernant ce cas sont considérées par la loi suisse comme étant couvertes par le droit à la vie privée et ne peuvent être fournies au Rapporteur spécial que si ce dernier fournit la preuve du consentement de M. Ahmed à ce que ces informations soient transmises.

509. Le Rapporteur spécial va s'efforcer d'obtenir ce consentement et continuera à être en contact avec le gouvernement suisse avant d'exprimer son opinion sur le fait de de savoir si le droit de M. Ahmed à l'intégrité physique a été violé.

## Syrian Arab Republic

(a) JUA 20/01/2014 Case No. SYR 1/2014 State Reply: 03/02/2014 Allegations of denial of access to food, safe drinking water, medicines and medical care for persons detained in Aleppo Central Prison, as well as conditions amounting to arbitrary detention and inhumane treatment of detainees, in the context of the ongoing armed conflict.

510. The Special Rapporteur thanks the Government of Syrian Arab Republic for its reply, dated 03.02.2014, to the present communication.

511. The Rapporteur welcomes the steps taken by the Syrian Government to assure minimum detention conditions for prisoners in Aleppo Central Prison. However, he regrets that the government has not been able to assure that all prisoners have access to food, drinking water, medicine and medical care and are free from arbitrary detention.

512. The Rapporteur hence finds that the Government's reply fails sufficiently to address the concerns raised in the initial communication. The Government therefore fails fully and expeditiously to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to refrain from inflicting torture or cruel, inhuman or degrading treatment to any person. It fails as well to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

513. In absence of information to the contrary, the Rapporteur concludes that the allegations presented in the initial communication about inhumane conditions in Aleppo Central Prison have been substantiated. The Government of Syria, by failing to prevent arbitrary detention and assure minimum standards of detention of the persons detained in Aleppo Central Prison, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(b) JUA 22/01/2014 Case No. SYR 2/2014 State Reply: 31/03/2014 **Allegations concerning the case of Mr. Akram Raslan.**

514. The Special Rapporteur thanks the Government of Syrian Arab Republic for its reply, dated 31.03.2014, to the present communication.

515. The Rapporteur takes note of the information provided by the Government that, on the date of the dispatch of the reply, Mr. Raslan was still in detention, and that his case was still under investigation. He regrets that, as of the drafting of this report, the Government has not provided any update on the case. The Rapporteur moreover expresses grave concern at the fact that the Government has failed, in its reply, to provide any information on Mr. Raslan's condition and whereabouts.

516. The Rapporteur hence finds that the Government's reply does not sufficiently address the concerns raised in the initial communication, and therefore the Government of Syria fails fully and expeditiously to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. It fails as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

517. In absence of information to the contrary, the Rapporteur concludes that arbitrary detention and conditions in Aleppo Central Prison constitute violations of the absolute prohibition on torture and cruel, inhuman or degrading treatment or punishment and that the Government of Syria has violated the right of Mr. Raslan to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(c) JUA 31/01/2014 Case No. SYR 3/2014 State Reply: None to date **Allegations concerning a deliberate policy to deprive people of access to food, safe drinking water, medical care and adequate housing as a method of war.**

518. The Special Rapporteur regrets that the Government of Syria has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

519. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Syria, by failing to protect the physical and psychological integrity of civilians, inter alia, by depriving them from access to food, water, and medical attention, has violated the right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT, as well as incurred in grave breaches of the Geneva Conventions and the law and customs of war.

(d) JAL 30/05/2014 Case No. SYR 5/2014 State Reply: None to date **Allegations of arbitrary arrest and detention, denial of access to medical services whilst in detention, torture and ill-treatment of Mr. Naef Al Refai, which eventually led to his death in May 2014.**

520. The Special Rapporteur regrets that the Government of Syria has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

521. Mr Al Refai, a military judge, was reportedly arrested after he inquired about the fate of his sister, who was suspected of being a political opponent. After months of incommunicado detention, he was sentenced to ten years in prison, on a similar charge as his sister. When his relatives eventually saw him in detention he had clear signs of torture and mistreatment and of serious threat to his health as a result, and was being denied medical attention. He died while still in custody in May of 2014.

522. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Syria, by failing to protect the physical and psychological integrity of Mr. Refai, and by denying him access to medical treatment, which led to his death in detention, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(e) JUA 21/11/2014 Case No. SYR 8/2014 State Reply: None to date **Allegations of arbitrary arrest and incommunicado detention of Mr. Jdea Abdullah Nawfal and Mr. Omar Al Shaar.**

523. The Special Rapporteur regrets that the Government of Syria has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

524. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations that Mr. Nawfal and Mr. Shaar have been arbitrarily detained and remain in incommunicado detention without access to a lawyer or medical care. The Government of Syria fails to protect their physical and psychological integrity and violates their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Tajikistan

**(a)** JAL 31/01/2014 Case No. TJK 1/2014 State Reply: 29/04/2014 **Allegations concerning the circumstances of the death of Mr. Umed Tojiev.**

525. The Special Rapporteur thanks the Government of Tajikistan for its reply, dated 29.04.2014, to the present communication.

526. The Rapporteur takes note of the information provided by the Government that an investigation into the death of Mr. Tojiev was conducted and that a criminal case against the perpetrator is still ongoing.

527. The Rapporteur however finds that the Government's reply does not sufficiently address the concerns raised in the initial communication, and for that reason the Government does not fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, nor does it comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

528. In the absence of substantial information to the contrary, the Rapporteur concludes that Mr. Umed Tojiev died as a result of injuries sustained jumping from a window in police headquarters in a desperate attempt to escape very serious and cruel torture inflicted on him to force him to incriminate himself. Tajikistan is internationally responsible for his extreme torture and for failing to protect his physical and mental integrity while in detention, resulting in his death.

(b) JAL 02/06/2014 Case No. TJK 3/2014 State Reply: 27/08/2014 **Allegations concerning events surrounding the death and alleged torture of Mr. Hamza Ikromzoda at Dushanbe's penal colony No. 1; the subsequent trial of a prison warden in connection with Mr. Ikromzoda's death; and the alleged subsequent retaliation, torture, trial and**

**sentencing of Mr. Ikromzoda's fellow inmates Mr. Sadriddin Toshev and Mr. Sunattulo Rizoev, as well as other inmates.**

529. The Special Rapporteur thanks the Government of Tajikistan for its reply, dated 27.08.2014, to the present communication.

530. The Rapporteur takes note of the information provided by the Government that Tajikistan that an investigation surrounding the death of Mr. Ikromzoda was conducted, which resulted in a report that attributed the death to suicide. Further, the Rapporteur takes note of the Government's report that Mr. Toshev and Mr. Rizoev have been charged with disrupting the functioning of the penitentiary system and false denunciation and alleged investigations did not lead to evidence of torture or reprisals; further, that Mr. Toshev appeared in a video statement allegedly retracting statements about Mr. Ikromzoda's death.

531. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

532. The information provided by the Government is unpersuasive as to the alleged suicide in custody of Mr. Ikromzoda or the lack of evidence of retaliation against Messrs. Tosheve and Rizoev. In particular, no explanation is given for the transfer of the latter two inmates to a remote prison after they claimed to have witnessed severe mistreatment of Mr. Ikromzoda. A recantation via video of testimony by an inmate that is under the absolute control of the penitentiary system must be treated with a high degree of scepticism. Fundamentally, the Government's reply fails to demonstrate that the inquiries into the death of Mr. Ikromzoda and into the allegations made by the two other inmates were surrounded by guarantees of independence, impartiality and promptness and were not interfered with or influenced by the interests of penitentiary personnel to protect colleagues and cover up wrongdoing. The Rapporteur believes – on the basis of the information received and of interviews conducted during his follow-up visit to Tajikistan in February 2014 – that there is substance in the allegations presented in the initial communication and that the Government should have made a serious attempt to provide accountability for what appears to have been very grave violations of the physical and psychological integrity of Mr. Ikromzoda, Mr. Toshev and Mr. Rizoev. He concludes that their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT, has been violated by the Government and he urges it to conduct a proper, credible, independent and impartial investigation into the events.

(c) JUA 23/06/2014 Case No. TJK 4/2014 State Reply: 21/07/2014 **Allegations of arbitrary arrest, incommunicado detention and enforced disappearance of Mr. Alexander Sodiqov.**

533. The Special Rapporteur thanks the Government of Tajikistan for its reply, dated 21.07.2014, to the present communication.

534. The Rapporteur takes note of the information provided by the Government of Tajikistan that Mr. Sodikov is currently detained in the State Committee on National Security detention facility and that there is an ongoing investigation for treason; however, his guilt has not been established. The Rapporteur also takes not that Mr. Sodikov has had access to lawyers.

535. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication. In particular, the reply fails to indicate

that any investigation has taken place with regards to the allegations of mistreatment of Mr. Sodikov. The Government's reply therefore fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as with the State's obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

536. It has come to the attention of the Rapporteur that Mr. Sodikov was released from detention. Notwithstanding, the Rapporteur concludes that the Government of Tajikistan has failed to protect the physical and psychological integrity of Mr. Sodikov, and has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Tanzania

(a) JAL 02/04/2014 Case No. TZA 1/2014 State Reply: None to date **Allegations of beatings of three Maasai pastoralists, Munjaa son of Musa, age 24, Kendo son of Maiwa, age 46 and Naboye Ngukwo, age 27 from Sukenya Village, an area subject to ongoing dispute regarding access to land and forcible eviction of Maasai families.**

537. The Special Rapporteur regrets that the Government of Tanzania has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

538. The allegation letter referred to the assaults on Messrs. Munjaa, Kendo and Naboye by wardens of the corporation with which the Maasai are in dispute over land, an incident in which the wards were assisted by policemen of the region. All three members of the ethnic minority were repeatedly beaten while being detained and later in the premises of the company. The Government of Tanzania has failed to respond to joint appeals sent in 2009 and 2013 about similar incidents affecting Maasai citizens.

539. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Tanzania, by failing to protect the physical and psychological integrity of Munjaa son of Musa, Kendo son of Maiwa, and Naboye Ngukwo, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(b) JAL 08/08/2014 Case No. TZA 2/2014 State Reply: None to date **Allegations of on-going attacks against persons with albinism resulting in death or severe maiming, and allegations that they do not receive adequate protection from the State; and reports according to which persons with albinism who have been displaced due to the prevalence of such attacks, and particularly children, are subjected to abusive treatment and substandard living conditions in a number of State-run institutions in which they seek refuge.**

540. The Special Rapporteur regrets that the Government of Tanzania has not, as of the drafting of this report, replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

541. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Tanzania, by failing to provide protection to persons with albinism and to investigate attacks on persons with albinism has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Thailand

(a) JUA 28/05/2014 Case No. THA 6/2014 State Reply: 13/06/2014 **Allegations concerning the suspension of constitutional guarantees, detention of senior political leaders and others, closure of multiple media outlets in Thailand.**

542. TheThe Special Rapporteur thanks the Government of Thailand for its reply, dated 13.06.2014, to the present communication.

543. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication.

544. He welcomes the efforts by the Government to decrease measures taken under Emergency laws and the Government's cooperation with the OHCHR Regional Office in Bangkok. Specifically, the Special Rapporteur welcomes the 3-stages Roadmap towards a democratic system, the lifting of curfews throughout the country and the media outlets resuming their broadcasting.

545. The Special Rapporteur will continue to monitor the situation in Thailand and would like to encourage the Government of Thailand to provide more information and details on the implementation of the Roadmap and the conditions of detention.

(b) JUA 22/08/2014 Case No. THA 9/2014 State Reply: None to date **Allegations of arbitrary arrest, torture and other ill-treatment in custody of Ms. Kritsuda Khunasen, by members of the military forces.**

546. The Special Rapporteur regrets that the Government of Thailand has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

547. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, that Ms. Khunasen was arbitrarily arrested, and tortured by members of the military forces for her affiliation with the United Front of Democracy against Dictatorship and thus, that the Government of Thailand, by failing to protect the physical and psychological integrity of Ms. Khunasen, has violated her right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(c) JUA 12/09/2014 Case No. THA 10/2014 State Reply: 15/09/2014 **Allegations concerning the charges against Ms. Pornpen Khongkachonkiet and Mr. Somchai Homla-or, human rights defenders based in Bangkok, Thailand.**

548. The Special Rapporteur thanks the Government of Thailand for its reply, dated 15.09.2014, to the present communication.

549. The Rapporteur takes note of the information provided by the Government of Thailand that Ms. Khongkachonkiet has been invited to take an advisory position on a committee related to the conduct of Army officers. The Rapporteur also takes not of the information regarding training for the Army Ranger Force on the Convention against Torture and Other Cruel Inhuman or Degrading Treatment. The reply does not clarify whether the charges originally faced by Ms. Khonkachonkiet have been dismissed. Neither does it address the matter of whether there has been any investigation into alleged mistreatment of the two human rights defenders.

550. The Rapporteur acknowledges the account of the Government in response to the concerns, legal obligations and questions raised in the initial communication. The Rapporteur notes that no information was provided regarding Mr. Homla-or. The Rapporteur concludes that the Government of Thailand has failed to protect the physical and psychological integrity of Ms. Khongkachonkiet and Mr. Homla-or as well as their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(d) JUA 10/10/2014 Case No. THA 11/2014 State Reply: 14/10/2014 **Allegations of arbitrary arrest and detention, as well as torture and other cruel, inhuman or degrading treatment or punishment, by military officers, of five persons in and around Bangkok.**

551. The Special Rapporteur thanks the Government of Thailand for its reply, dated 14.10.2014, to the present communication.

552. The Rapporteur takes note of the information provided by the Government of Thailand that the letter was forwarded to the relevant agencies in Thailand.

553. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, and thereby fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

554. In the absence of sufficient information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, that Mr. Chatchawan Prabbhumrung, Ms. Saewngwan Nakrien, Mr. Somsri Marit, Mr. Taweechai Wichakham, and Mr. Bancha Khotphuthorn have been arbitrarily arrested and detained and subjected to torture and other cruel, inhuman or degrading treatment or punishment by military officers. Further, the Special Rapporteur expresses grave concern regarding the allegations that these persons have been threatened to be executed and remain in detention. Thus, the Rapporteur concludes that that the Government of Thailand, by failing to protect the physical and psychological integrity of these individuals, has violated their right free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(e) UA 01/07/2014 Case No. THA 7/2014 State Reply: 16/07/2014 **Allegations concerning the situation of over 430 persons claiming to be Turks, who are currently held in various immigration detention centres and facilities of the Ministry of Social Development and Human Security in Thailand.**

555. The Special Rapporteur thanks the Government of Thailand for its reply, 16.07.2014, to the present communication.

556. The Rapporteur takes note of the information provided by the Government of Thailand that the letter has been forwarded to the relevant agencies in Thailand and that the Government is conducting an investigation on the case, but has now placed women and

children under the responsibility of the Ministry of Social Development and Human Security.

557. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

558. In the absence of sufficient information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, that as of April 2014 over 430 persons, mostly women and children, have remained in immigration detention centres that are overcrowded, with inadequate food and sanitation conditions. Thus, that the Kingdom of Thailand by failing to protect the physical and psychological integrity of these individuals, has violated their right free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

559. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the extradition of these persons to China, has not taken place and that Turkey has allegedly offered to receive them. The Rapporteur strongly urges the Government of Thailand to protect the right of the detained persons to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT, and to refrain from extraditing these detained persons to any country where they would be at risk of torture or cruel, inhuman or degrading treatment or punishment, thereby ensuring compliance with article 3 of the CAT.

## Tunisia

JAL 07/11/2014 Case No. TUN 2/2014 State Reply: 07/01/2015 **Allégations de torture et la mort de M. Mohamed Ali Snoussi et de M. Ali Ben Khemayes Louati.**

560. Le Rapporteur spécial remercie le gouvernement de la Tunisie pour sa réponse, datée du 7 janvier 2015.

561. Le Rapporteur spécial analysera cette réponse dès que la traduction officielle sera disponible.

## Turkey

JUA 24/12/2013 Case No. TUR 6/2013 State Reply: 21/02/2014 **Allegations concerning the situation of juvenile offenders detained in Sakran Juvenile Prison, Aliaga district, Izmir, Turkey.**

562. The Special Rapporteur thanks the Government of Turkey for its reply, dated 21.02.2014, to the present communication.

563. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication.

564. The Special Rapporteur welcomes the efforts by the Government to diminish deficiencies in the juvenile detention system and ensure access to justice, education and health care. While the Rapporteur appreciates the Government's attempts to limit solitary confinement in Juvenile Prison, he regrets that the use of solitary confinement as a punitive

measure against children continues. The Special Rapporteur takes note of the steps taken to investigate cases of ill-treatment at Sakran Juvenile Prison and prosecute alleged perpetrators; however he regrets that, on the date of the dispatch of the reply, most disciplinary cases against custodial officers or prison directors had been dismissed or were still pending.

565. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

566. The Special Rapporteur recalls that when used on juveniles, pregnant women, or people with mental disabilities (A/66/268), solitary confinement amounts to cruel, inhuman or degrading treatment or punishment or even torture, even if not used indefinitely or for a prolonged period of time.

567. The Rapporteur concludes that the Government of Turkey, by failing to ensure the physical and mental integrity of the juvenile offenders in detention, by subjecting them to prolonged solitary confinement, not guaranteeing them access to health care, and not ensuring the effective investigation and punishment of those responsible, has acted in contravention of 12 of the CAT, and violated the right of the juvenile offenders in question to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. With regards to the present case, the Special Rapporteur recalls paragraph 6 of General Comment No. 20 of the Human Rights Committee as well as article 7 of the Basic Principles for the Treatment of Prisoners (Adopted by the General Assembly by resolution 45/111 of 14 December 1990).

## Ukraine

JUA 20/02/2014 Case No. UKR 1/2014 State Reply: None to date **Allegations of excessive use of force against, killings, injuries, enforced disappearances of, and arbitrary arrests and detention of, largely peaceful protestors and journalists in the context of Euromaidan ("Independence Square") protests, which have been ongoing in Kiev and other parts of the country since November 2013.**

568. The Special Rapporteur regrets that the Government of Ukraine has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

569. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Ukraine, by failing to protect the physical and psychological integrity of protestors and journalists during the Euromaidan protests, has violated the right

of these individuals to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

570. The Special Rapporteur notes that the extreme acts of violence against demonstrators in Maidan square happened at the end of the previous regime. Nevertheless, he reiterates that, based on the principle of continuity of States, the new Government of Ukraine is obliged to investigate the incidents thoroughly and independently, and to prosecute and punish all those responsible.

## United Arab Emirates

**(a)** JUA 09/01/2014 Case No. ARE 1/2014 State Reply: 16/04/2014 **Allegations concerning the cases of Messrs. Ravindra Krishna Pillai, Abdullah Abdur-Rahman Abdullah, Mohomed Naif Ali, Kamrul Islam and Ateek Ashraf, who are reportedly scheduled to be executed on 12 January 2014, in the United Arab Emirates.**

571. The Special Rapporteur thanks the Government of United Arab Emirates for its reply, dated 16.04.2014, to the present communication.

572. The Rapporteur takes note of the information provided by the Government that, on the date of the dispatch of the reply, discussions were ongoing with relatives of four of the persons sentenced on waiving the retributive death penalty. However, he regrets the fact that Mr. Ravinda Krishna Pillai had already been executed at the time of the reply, and that, as of the drafting of this report, the Government has not provided any update on the cases.

573. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

574. The Rapporteur finds that the Government's reply fails sufficiently to address the concerns raised in the initial communication; as a result, the Government fails to cooperate fully and expeditiously with the mandate issued by the Human Rights Council in Resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

575. In particular, the Special Rapporteur finds that Mr. Ravindra Krishna Pillai was executed for what seems to have been a non-intentional taking of another's life, in violation of the norm that restricts capital punishment to only "the most serious crimes." He appears to have been executed pending appeals, which constitutes another serious breach of international law standards regarding the death penalty. The Special Rapporteur also finds that imposing the death penalty on a person with mental disabilities, as is the case with Mr. Abdullah Abdur-Rahman Abdullah, is likewise a violation of UAE international obligations.

576. The Rapporteur concludes that the Government of United Arab Emirates, by not taking steps to prevent the execution of Mr. Krishna Pillai, has violated his right to be free

from torture or cruel, inhuman or degrading treatment, as described in articles 1 and 16 of the CAT.

577. The Rapporteur strongly condemns the execution of Mr. Krishna Pillai and calls on the Government of United Arab Emirates to take appropriate measures in order to ascertain that the practice of executions be abolished in the future, including by undertaking a prompt, impartial, and effective investigation of the alleged acts of torture, prosecuting and punishing the responsible for those acts, and providing redress to the victim's family for the torture and execution of Mr. Krishna Pillai.

578. The Rapporteur strongly urges the Government of United Arab Emirates to refrain from executing the other persons in question, as well as to refrain from, and abolish, the practice of executions.

(b) JUA 16/04/2014 Case No. ARE 3/2014 State Reply: 13/05/2014 **Allegations of arbitrary arrest, detention and torture of Mr. Osama Al-Najjar.**

579. The Special Rapporteur thanks the Government of United Arab Emirates for its reply, dated 13.05.2014, to the present communication.

580. The Rapporteur welcomes the Government's initiative to investigate the allegations of arbitrary arrest, detention and torture of Mr. Al-Najjar. However, he regrets that, as of the drafting of this report, the Government has not submitted any substantive reply.

581. The Rapporteur finds that the reply of 13.05.2014 does not sufficiently address the concerns raised in the initial communication, which means that the Government fails to cooperate fully and expeditiously with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

582. In the absence of information to the contrary, the Rapporteur concludes that Mr. Al-Najjar was severely tortured in the course of his detention and interrogation at a secret site, and that this violation is aggravated by the fact that it was retaliation for his legitimate exercise of free expression and advocacy in support of his father's case. Therefore, the Government of United Arab Emirates, by failing to protect the physical and psychological integrity of Mr. Al-Najjar, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(c) JUA 30/12/2013 Case No. ARE 7/2013 State Reply: 27/02/2014 **Allegations of abduction of Mr. Abdulrahman al-Jaidah.**

583. The Special Rapporteur thanks the Government of United Arab Emirates for its reply, dated 27.02.2014, to the present communication.

584. The Rapporteur takes note of the information provided by the Government that Mr. al-Jaidah was arrested on 24.12.2013 and deported to Qatar the day after his arrest.

585. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, specifically about the arrest of Mr. al Jaidah as he was attending the trial of his father, about the beatings that he suffered at the time and the fact that he was held in an undisclosed location. The insufficient reply prompts the Rapporteur to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

586. In the absence of convincing information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of United Arab Emirates, by failing to protect the physical and psychological integrity of Mr. al-Jaidah and investigate his enforced disappearance and secret detention, has acted in discordance with article 12 of the CAT, and violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(d) JUA 08/10/2014 Case No. ARE 5/2014 State Reply: 04/11/2014 **Allegations of arbitrary arrest, *incommunicado* detention and enforced disappearance of two Qatari nationals, Mr. Yousef Abdu al-Ghani Ali al-Mullah ( الملا علي الغني عبد يوسف ) and Mr. Hamed Ali Mohamed al-Hamaadi ( الحمادي محمد علي حمد ) by United Arab Emirates (UAE) police.**

587. The Special Rapporteur thanks the Government of the United Arab Emirates for its reply, dated 04.11.2014, to the present communication.

588. The Rapporteur takes note of the one-month extension requested by the Government to complete an investigation.

589. The Special Rapporteur notes that since the date of the Government's request for an extension, the Government has not issued any further communications to the Rapporteurship, thus failing to cooperate fully and expeditiously with the mandate issued by the Human Rights Council in Resolution 25/13. In the absence of information, the Rapporteur concludes that there is substance in the allegations presented in the initial communication that Mr. al-Mullah and Mr. al-Hamaadi have been arbitrarily arrested and have been in incommunicado detention and are victims of enforced disappearance. Thus, the Special Rapporteur concludes that the Government of the United Arab Emirates by failing to protect the physical and psychological integrity of Mr. al-Mullah and Mr. al-Hamaadi, has violated their to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## United Kingdom of Great Britain and Northern Ireland

(a) JUA 21/05/2014 Case No. GBR 2/2014 State Reply: 10/07/2014 **Allegations of imminent deportation of Mr. A to Bahrain.**

590. The Special Rapporteur thanks the Government of the United Kingdom of Great Britain and Northern Ireland for its reply, dated 10.07.2014, to the present communication.

591. The Rapporteur takes note of the information provided by the Government that Mr. A has not been extradited to Bahrain as of the date of the reply, although the note does not provide any information as to the status of judicial proceedings regarding this case.

592. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, specifically with regards to the refusal to grant Mr. A asylum although he has been detained and tortured three times in Bahrain and sentenced in absentia for promoting "illegal gatherings." The reply provides no assurance that Mr. A will not be deported to Bahrain in the future. This insufficient reply prompts the Rapporteur to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

593. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the extradition of Mr. A to Bahrain, has not taken place. The Rapporteur strongly urges the Government of the United Kingdom of Great Britain and Northern Ireland to protect the right of Mr. A to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT, and to refrain from extraditing Mr. A to Bahrain, thereby ensuring compliance with article 3 of the CAT.

(b) JUA 20/10/2014 Case No. GBR 3/2014 State Replies: 28/10/2014 and 06/11/2014 **Allegations concerning Mr. Liaquat Ali Hazara, an asylum seeker from Pakistan, who is at imminent risk of being persecuted, tortured and killed if forcibly returned from the United Kingdom to Pakistan.**

594. The Special Rapporteur thanks the Government of United Kingdom of Great Britain and Northern Ireland for its reply, dated 28.10.2014 and 06.11.14 to the present communication.

595. The Rapporteur takes note of the information provided by the Government that Mr. Hazara has exhausted his appeal rights and that his removal did not go as scheduled in October 2014 because his Emergency Travel Document requested from the Pakistan High Commission was not issued in time for his flight. Further, that additional submissions made on behalf of Mr. Hazara were being considered.

596. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication.

597. It has come to the attention of the Special Rapporteur that the extradition Mr. Hazara to Pakistan, has been called off. The Rapporteur welcomes the decision of the Government of United Kingdom of Great Britain and Northern Ireland to refrain from extraditing Mr. Hazara, and thereby comply with article 3 of the CAT.

(c) JUA 14/11/2014 Case No. GBR 5/2014 State Reply: 20/11/2014 **Allegations of the expulsion of Rwandan journalist, Mr. Madjaliwa Niyonsaba scheduled for Sunday, 16 November 2014, considering serious risks of harassment, arbitrary detention, ill-treatment and torture, and death if forcibly returned to Rwanda.**

598. The Special Rapporteur thanks the Government of the United Kingdom of Great Britain and Northern Ireland for its reply, dated 20.11.2014, to the present communication.

599. The Rapporteur takes note of the information provided by the Government, which stated that it deferred that Mr. Niyonsaba's extradition on receipt of a sealed application for Judicial Review.

600. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

601. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the extradition of Mr. Niyonsaba to Rwanda, has not taken place. The Rapporteur strongly urges the Government of the United Kingdom of Great Britain and Northern Ireland to protect the right of Mr. Niyosaba to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT, and to refrain from extraditing Mr. Mr. Niyonsaba to Rwanda, thereby ensuring compliance with article 3 of the CAT.

## United States of America

(a) JUA 03/12/2013 Case No. USA 19/2013 State Reply: 19/12/2013 **Allegations concerning the situation of Mr. Askari Abdullah Muhammad, 62, death row prisoner since 1975, who suffers from a serious mental illness. Mr. Abdullah Muhammad is reportedly at risk of being executed in the state of Florida, United States of America.**

602. The Special Rapporteur thanks the Government of United States of America for its reply, dated 19.12.2013, to the present communication.

603. The Rapporteur takes note of the information provided by the Government that, on the date of the dispatch of the reply, the execution of Mr. Muhammad had been delayed pending a legal challenge.

604. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

605. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and is running afoul the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

606. The Special Rapporteur recalls that when used for juveniles, pregnant women, or people with mental disabilities, (A/66/268 and A/68/295), solitary confinement amounts to cruel, inhuman or degrading treatment or punishment or even torture, even if not used indefinitely or for a prolonged period of time.

607. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79). The execution of persons who are mentally disabled is per se a violation of an existing norm of customary international law.

608. It has come to the attention of the Special Rapporteur, that Mr. Muhammad was executed on 07.01.2015. The Rapporteur strongly condemns the execution and concludes that the Government of the United States, by preventing the solitary confinement and

execution of Mr. Muhammad, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. The Rapporteur calls on the Government of the United States to take appropriate measures in order to ascertain that the practice of executions be abolished in the future, including by undertaking a prompt, impartial, and effective investigation of the alleged acts of torture, prosecuting and punishing the responsible for those acts, and providing redress to the victim's family for the torture and execution of Mr. Muhammad.

(b) JUA 05/12/2013 Case No. USA 20/2013 State Reply: 05/12/2013 **Allegations concerning the situation of Mr. Djamel Ameziane, born in 1967, ethnic Berber from Algeria who fled Algeria in early 1990s and unsuccessfully sought asylum in Austria and Canada before he was reportedly detained in Pakistan and transferred to Guantanamo Bay, Cuba. Mr. Ameziane is at risk of being forcibly transferred to Algeria where it is feared that he will be subjected to torture and ill-treatment. Mr. Ameziane is currently seeking resettlement in a safe third country.**

609. The Special Rapporteur thanks the Government of United States of America for its reply, dated 05.12.2013, to the present communication.

610. The Rapporteur takes note of the information provided by the Government regarding its policy on extradition.

611. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

612. It has come to the attention of the Special Rapporteur, that Mr. Ameziane was extradited on 05.12.13 to Algeria. The Rapporteur condemns the extradition, which is a violation of article 3 of the CAT, and urges on the Government of the United States to rescind the deportation order, and to ensure the return of the aforementioned individual to the United States. Moreover, the Rapporteur calls on the Government to take appropriate measures in order to ascertain that extraditions in violation of article 3 of the CAT do not take place in the future, including the investigation, prosecution and punishment of those responsible for the illegal extradition of Mr. Ameziane.

(c) JAL 20/12/2013 Case No. USA 21/2013 State Reply: None to date **Allegations concerning a lethal air strike in the Republic of Yemen on 12 December 2013, allegedly involving the use of armed drones belonging to the authorities of the United States of America.**

613. The Special Rapporteur regrets that the Government of the United States has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

614. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of the United States, by conducting an air strike that killed at least 12 and injured at least 10 individuals, the majority of whom were civilians, has violated the right of these civilians to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(d) UA 10/01/2014 Case No. USA 1/2014 State Reply: None to date **Allegations concerning the case of Mr. Kenny Zulu Whitmore, who has been held in a solitary confinement for 35 years (of which 27 consecutive years) in the maximum security Louisiana State Prison (LSP, also known as Angola), in the United States of America.**

615. The Special Rapporteur regrets that the Government of the United States has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

616. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and is running afoul the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

617. Being aware of the arbitrary nature of any effort to establish a moment in time when an already harsh regime becomes prolonged and therefore unacceptable, the Special Rapporteur defined that prolonged solitary confinement is any period of solitary confinement in excess of 15 days (A/66/268). This definition was based on the large majority of scientific studies which indicate that after 15 days of isolation harmful psychological effects often manifest and may even become irreversible. The Special Rapporteur recalls that when used indefinitely, for long periods, solitary confinement amounts to cruel, inhuman or degrading treatment or punishment or even torture, because it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156.

618. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of the United States, by holding Mr. Whitmore in solitary confinement for 35 years, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. With regards to the present case, the Special Rapporteur recalls paragraph 6 of General Comment No. 20 of the Human Rights Committee as well as article 7 of the Basic Principles for the Treatment of Prisoners (Adopted by the General Assembly by resolution 45/111 of 14 December 1990).

(e) JUA 10/07/2014 Case No. USA 11/2014 State Reply: 07/01/2015 **Allegations of arbitrary, incommunicado detention and possible disappearance of Mr. Sharif Mobley, a U.S. citizen apprehended upon suspicion of involvement in "terrorist activities".**

619. The Special Rapporteur thanks the Government of the United States of America for its reply, dated 07.01.2015, to the present communication.

620. The Rapporteur takes note of the information provided by the Government that the Government is prevented from providing any information without the written consent of Mr. Mobley.

621. In light of this, the Rapporteur finds that the Government, in its reply, does not address the concerns and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, as well as to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

622. In the absence of any information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of the United States of America, by failing to prevent, possibly abetting, the arbitrary incommunicado detention and disappearance of Mr. Mobley, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

623. It has come to the attention of the Special Rapporteur that reportedly Mr. Mobley is secretly detained in a Special Forces army base in Sanaa, and that this army base has recently been taken over by the Houthi movement.

624. The rapporteur strongly urges the Government of the United States of America to take any action required to ensure Mr. Mobley's physical and psychological integrity, including evacuation.

(f) UA 31/07/2014 Case No. USA 12/2014 State Reply: None to date **Allegations concerning the situation of seven non-Afghan nationals in U.S. military custody at the Bagram Air Base in Afghanistan, who are at risk of being forcibly transferred to the custody of other States where they may be tortured, ill-treated, or summarily executed.**

625. The Special Rapporteur regrets that, as of the drafting this report, the Government of the United States of America has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

626. It has come to the attention of the Special Rapporteur that the U.S. military closed the Bagram Air Base in December 2014 and that no prisoners remain in U.S. military custody there. It has come to the Rapporteur's attention that of the seven non-Afghan nationals four have been transferred to Afghan custody, where they are now facing greater risk of being forcibly transferred, and one has been unlawfully abandoned in Afghanistan, where he is unprotected and faces the risk of being forcibly transferred.

627. The Rapporteur strongly condemns the transfer and unlawful abandonment of these individuals, which is a violation of article 3 of the CAT. The Rapporteur calls on the Government of the United States of America to take appropriate measures in order to ascertain that extraditions in violation of article 3 of the CAT do not take place in the future, including the investigation, prosecution and punishment of those responsible for these acts of transfer and unlawful abandonment.

(g) JAL 04/08/2014 Case No. USA 13/2014 State Reply: None to date **Allegations concerning the execution of Mr. Clayton Lockett which was carried out at the Oklahoma State Penitentiary in McAlester, on 29 April 2014, and which caused pain and suffering to the condemned.**

628. The Special Rapporteur regrets that the Government of the United States of America has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts

of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

629. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

630. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of the United States of America, by executing Mr. Clayton Lockett by the administration of compound chemicals, thereby causing an attenuated and painful execution, has violated Mr. Lockett's right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Uzbekistan

JUA 16/04/2014 Case No. UZB 1/2014 State Reply: None to date **Allegations of torture while in detention of Mr. Fakhriddin Tillaev, and his sentencing to eight years and three months of imprisonment.**

631. The Special Rapporteur regrets that the Government of the Uzbekistan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

632. As mentioned in the joint urgent appeal, Mr. Tillaev was subjected to torture under interrogation, consisting of blows to his ear that caused extensive bleeding, being forced to stand under a dripping shower for hours, and having needles inserted between fingers and toes. His request for a forensic medical investigation was ignored.

633. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Uzbekistan, by failing to protect the physical and psychological integrity during the detention of Mr. Tillaev, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Venezuela (Bolivarian Republic of)

**(a)** JUA 03/03/2014 Case No. VEN 1/2014 State Replies: 03/04/2014 and 28/04/2014 (including 28/04/2014, 28/04/2014, and 28/04/2014) **Alegaciones de violaciones graves de los derechos humanos, en particular los derechos a la vida, a no ser sometido a tortura, a no ser arbitrariamente detenido, a reunirse pacíficamente, a expresarse y**

**asociarse libremente y a una protección eficaz de los defensores de los derechos humanos.**

634. El Relator Especial agradece al Gobierno de Venezuela por sus respuestas, de fechas 3 y 28 de abril del 2014, acusando recibo de la presente comunicación.

635. El Relator Especial da cuenta del esfuerzo del Gobierno en responder a las inquietudes presentadas en la comunicación inicial sobre las alegaciones de violaciones graves de los derechos humanos particularmente sobre el derecho a la vida, a no ser sometido a tortura, a no ser arbitrariamente detenido, a reunirse pacíficamente, a expresarse y asociarse libremente y a una protección eficaz de los defensores de los derechos humanos.

636. El Relator Especial toma nota de la información ofrecida por el Gobierno de Venezuela y aprecia el nivel de detalle de la información adjuntada. El Relator Especial desea hacer referencia a los artículos 3 y 6 de la Declaración Universal de Derechos Humanos y el Pacto Internacional de Derechos Civiles y Políticos, que garantizan a todo individuo el derecho a la vida y a la seguridad de su persona y disponen que este derecho sea protegido por la ley y que nadie sea arbitrariamente privado de su vida. Es obligación del Estado establecer la infraestructura institucional necesaria para prevenir posibles violaciones a estos derechos y el Estado no podrá argumentar la falta de actuación de municipios, provincias o departamentos para evitar los hechos. El uso excesivo de la fuerza y criminalización de las protestas para sofocar las manifestaciones de febrero de 2014 causaron la muerte de 29 civiles y lesiones en otros 357, de acuerdo a la documentación aportada por el Gobierno de Venezuela. Tales hechos resultan contrarios a los Principios Básicos sobre el Empleo de la Fuerza y de Armas de Fuego por los Funcionarios Encargados de Hacer Cumplir la Ley. El principio 4 dice que tales funcionarios "en el desempeño de sus funciones, utilizarán en la medida de lo posible medios no violentos antes de recurrir al empleo de la fuerza y de armas de fuego." Además, el principio 9 de los Principios relativos a una eficaz prevención e investigación de las ejecuciones extralegales, arbitrarias o sumarias dice que los Gobiernos tienen la obligación de garantizar "una investigación exhaustiva, inmediata e imparcial de todos los casos en que haya sospecha de ejecuciones extralegales, arbitrarias o sumarias, incluidos aquéllos en los que las quejas de parientes u otros informes fiables hagan pensar que se produjo una muerte no debida a causas naturales en las circunstancias referidas (...)." El Relator Especial toma nota de las investigaciones que aún se encuentran en curso para determinar la responsabilidad de los funcionarios del Servicio Bolivariano de Inteligencia Nacional y suspensiones que pesan sobre ellos, y solicita que se lo mantenga al tanto de la evolución del proceso judicial.

637. En cuanto a los dos casos de tortura y 75 casos de malos tratos, el Relator Especial desea hacer referencia al Gobierno de Venezuela a los artículos 7 y 12 de la Convención contra la Tortura así como al párrafo 7(b) de la Resolución 16/23 del Consejo de Derechos Humanos que afirma la obligación del Gobierno de investigar los hechos denunciados. El Relator Especial toma nota de las investigaciones en curso y de la creación de la Comisión Nacional contra la Tortura y su participación en la búsqueda de esclarecimiento de los casos de tortura y tratos crueles inhumanos y degradantes.

638. Sin embargo, el Relator Especial concluye que el Gobierno de Venezuela, al no tomar medidas para prevenir la violación de la integridad física y la vida de las víctimas, así como los actos de tortura y los tratos crueles inhumanos y degradantes ejercidos contra manifestantes y detenidos, ha violado sus derechos a no ser torturados o sometidos a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT.

(b) JUA 13/05/2014 Case No. VEN 3/2014 State Reply: None to date **Alegaciones relativas a la detención y presuntos actos de tortura sufridos por el Sr. Juan Carlos Nieto Quintero.**

639. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Venezuela no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

640. Ante la falta de información que indique lo contrario, el Relator concluye que hay sustancia en las alegaciones presentadas en la comunicación inicial, reiteradas arriba, y por lo tanto, que el Gobierno de Venezuela, al no resguardar la integridad física y psicológica del Sr. Nieto Quintero al ser detenido por agentes de la Dirección de Inteligencia Militar (DIM), trasladado a un centro de detención militar en donde fue sometido a torturas durante 30 horas, negándole tratamiento médico y medicamentos y luego habiendo simulado la situación ante la familia como un secuestro exigiendo dinero por su liberación, ha violado el derecho del Sr. Nieto Quintero a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT.

(c) JAL 07/08/2014 Case No. VEN 6/2014 State Reply: None to date **Alegaciones de las condiciones de aislamiento solitario prolongado impuestas al Sr. Leopoldo López Mendoza durante su detención preventiva en las instalaciones militares de Ramo Verde y de los cacheos con violencia de los Sres. Enzo Scarano, Daniel Ceballos y Salvatore Luchesse, también detenidos en esa instalación.**

641. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Venezuela no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

642. Ante la falta de información que indique lo contrario, el Relator concluye que el Gobierno de Venezuela, al no proteger la integridad física y psicológica del Sr. Leopoldo López Mendoza al mantenerlo en condiciones de aislamiento solitario 23 horas al día, y al realizar violentos cacheos que repercutían en hematomas en la piel de los Sres. López, Scarano, Ceballos y Luchesse, es responsable por sus sufrimientos físicos y mentales en los que esta medida pueda derivar y ha violado sus derechos a no ser torturado o sometido a tratos crueles, inhumanos o degradantes como afirman los artículos 1 y 16 del CAT.

## Vietnam

JUA 12/11/2014 Case No. VNM 10/2014 State Reply: 30/01/2015 **Allegations of grave deteriorating health conditions of Ms. Mai Thi Dung, an independent Hoa Hao Buddhist, in prison after prolonged solitary confinement and lack of medical treatment.**

643. The Special Rapporteur thanks the Government of Viet Nam for its reply, dated 30.01.2015, to the present communication.

644. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns and questions raised in the initial communication. He takes note of the information provided by the Government regarding Ms. Mai Thi Dung's access to medical attention health care during her stay in prison and her reported subsequent

recovery. The Rapporteur also takes note of the explanation provided by the Government regarding the reasons for her transfer.

645. While the Rapporteur remains concerned about the health of Ms. Dung and the reasons for transferring Ms. Dung to a prison in the north of the country, the Rapporteur concludes that the Government of Viet Nam has not violated Ms. Dung's right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. However, the Rapporteur implores the Government of Viet Nam to continue to monitor the health of Ms. Dung to ensure that she receives the medical care that she is entitled to.

646. On the other hand, the Rapporteur considers unsatisfactory the Government's reply regarding the solitary confinement that Ms. Dung has been allegedly subjected to. Solitary confinement is an extreme measure that inflicts serious mental pain and suffering on the inmate. For that reason, if used for disciplinary reasons it should be only for extreme breaches of prison rules and for limited time. The Rapporteur urges the government of Viet Nam to clarify the duration and other conditions of any period of isolation to which Ms. Dung may have been subjected. If she has been placed in solitary confinement, the Rapporteur would also wish to know the reasons and purposes of the measure and what procedural guarantees were afforded to her. The Special Rapporteur reserves his opinion of whether this aspect of the case constitutes a violation of Viet Nam's international obligations until after receiving this additional information.

## Yemen

(a) JUA 19/12/2013 Case No. YEM 4/2013 State Reply: None to date **Allegations concerning the death in custody of Mr. Omar Zayd Hassan Soufyan in the Political Security Prison in Sana'a on 22 October 2013.**

647. The Special Rapporteur regrets that the Government of Yemen has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

648. Mr. Soufyan's death apparently took place in the context of a demonstration in the prison where he was held. His relatives were denied visits and then received the corpse. They found traces of severe mistreatment and requested an autopsy, which was denied.

649. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Yemen, by failing to protect the physical and psychological integrity and prevent the death in detention of Mr. Soufyan, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. In addition, the Government has failed to live up to its obligation to investigate each act of torture and to prosecute and punish those responsible.

(b) JAL 20/12/2013 Case No. YEM 5/2013 State Reply: None to date **Allegations concerning a lethal air strike in the Republic of Yemen on 12 December 2013, allegedly involving the use of armed drones belonging to the authorities of the United States of America.**

650. The Special Rapporteur regrets that the Government of Yemen has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and

other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

651. The joint allegation letter concerned the killing of 12 and injuries to 14 members of a convoy of cars going to a wedding, and the killing of a 5-year-old child and injuries to three women and a man in a separate drone attack the same day. It also mentioned two previous drone attacks in September 2013 resulting in 11 other deaths of civilians. It referred also to the alleged lack of any investigation into the four incidents.

652. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Yemen, failing to protect the physical integrity of the civilians in question, and possibly consenting to the airstrike conducted by the United States, has violated the right of these civilians to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. The injuries constitute at least cruel, inhuman or degrading treatment or even torture, and the Government has failed to live up to its obligation to investigate, prosecute and punish every such incident.

(c) JUA 16/06/2014 Case No. YEM 1/2014 State Reply: None to date **Allegations of incommunicado detention of Mr. Ahmed Ghanem Maarouf Al Masraba for almost 33 years.**

653. The Special Rapporteur regrets that the Government of Yemen has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

654. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Yemen, by holding Mr. Al Masraba in incommunicado detention for nearly 33 years, has violated the right of Mr. Al Masraba to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. The Rapporteur urges the Government of Yemen to take prompt measures to comply with its international obligations and grant Mr. Al Masraba the full enjoyment of his rights.

(d) JUA 09/07/2014 Case No. YEM 2/2014 State Reply: None to date **Allegations of incommunicado detention of Mr. Sharif Mobley, a U.S. citizen who was apprehended due to his suspected contact with al-Qaeda.**

655. The Special Rapporteur regrets that the Government of Yemen has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

656. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Yemen, by holding Mr. Mobley in incommunicado detention without charge, has violated the right of Mr. Mobley to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

657. It has come to the attention of the Special Rapporteur that reportedly Mr. Mobley is secretly detained in a Special Forces army base in Sanaa, and that this army base has recently been taken over by the Houthi movement.

658. The rapporteur strongly urges the Government of Yemen to protect Mr. Mobley's physical and psychological integrity, ensure Mr. Mobley is safely returned to a general prison, and immediately and publicly confirm his whereabouts and safety.

(e) JUA 18/07/2014 Case No. YEM 4/2014 State Reply: None to date **Allegations of alleged secret detention, risk of torture, and infringement of due process and fair trial guarantees of Mr. Mourad Ben Ayed and Mr. Taha Aissaoui, two French-Tunisian citizens.**

659. The Special Rapporteur regrets that the Government of Yemen has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

660. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Yemen, by arresting Mr. Ben Ayed and Mr. Aissaoui without charges and holding them in incommunicado detention, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(f) JUA 15/10/2014 Case No. YEM 5/2014 State Reply: None to date **Allegations of arbitrary detention and torture of Mr. Hamid Kamali, a Bahá'í follower in Yemen.**

661. The Special Rapporteur regrets that the Government of Yemen has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

662. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Yemen, by arbitrarily arresting Mr. Kamali and subjecting him to torture and ill-treatment in prison, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(g) JAL 03/11/2014 Case No. YEM 6/2014 State Reply: None to date **Allegations of extrajudicial executions and excessive use of force against peaceful protesters by Yemeni security forces.**

663. The Special Rapporteur regrets that the Government of Yemen has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13, and to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

664. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Yemen, by responding with unrestrained force to peaceful Houthi protests resulting in nine deaths and 67 injuries, has violated the right of these protestors to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

## Additional observations

AL 19/08/13 Case No. MEX 8/2013 State Reply: 27/01/2014 **Alegación de detención bajo régimen de incomunicación y actos de tortura y otros tratos o penas crueles, inhumanos o degradantes por fuerzas de seguridad del Estado.**

665. En lo que respecta al presente caso, Relator Especial recibió el 5 de febrero de 2014 informacion del Gobierno de México de que el Sr. Ángel Amílcar Colón Quevedo había sido puesto en libertad, después de haber sido privado de su libertad desde el 9 de marzo de 2009. El Relator acoge con satisfacción la decisión de liberar al Sr. Quevedo e insta al Gobierno de México a garantizar su integridad física y psicológica en el futuro.